89-403-XA (Amora Oil Company) 9/25/90 - Apper DISMISSED by C. of S. A. IN THE COURT OF KENNETH T. BOSLEY SPECIAL APPEALS Appellant OF MARYLAND PRE-DOCKET NO. COUNTY BOARD OF APPEALS 1188 SEPT. TERM 1990 OF BALTIMORE COUNTY * AMOCO OIL COMPANY Appellees ORDER DISMISSING APPEAL upon consideration of the Motion to Dismiss Appeal and no arswer to the motion having been filed, filed by Appellee, it is this 25th day of September, 1990 by the Court of Special Appeals of Maryland ORDERED that this Appeal be and is hereby dismissed. Md. Pule 8-602(a)(4).

90-09-12.cm

KENNETH T. BOSLEY

COUNTY BOARD OF APPEALS

and for reason therefore says:

PETITION AND AFFIDAVIT FOR REMOVAL

for removal of the above entitled case from Baltimore County

be obtained in Baltimore County.

The Appellant, Kenneth T. Bosley, petitions the Court

1. That your Petitioner will testify under oath that

2. That attached hereto is an affidavit stating also

I hereby certify that a copy of the above was mailed, first class postage prepaid to Anthony J. DiPaula, Covahey & Boozer, 614 Bosley

Avenue, Towson, Maryland 21204, and to The County Board of Appeals, Rm 315, County Office Building, Towson, Maryland 21204, ON JULY 11,1990.

he believes that a fair trial of this case can not

that a fair trial can not be obtained in Baltimore

County when the Appellee is represented by their

90 DEC 13 \$H11: 21

IN THE CIRCUIT COURT

BALTIMORE COUNTY

Case No. 77/181/ 90CG581

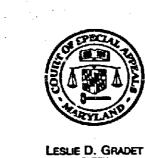
Kenneth T. Bosley

Kenneth T. Bosley

771-4316

Cockeysville, Maryland

21030



Court of Special Appeals Courts of Appeal Building Annapolis, Md. 21401-1699 (301) 974-3646

WASHINGTON AREA (301) 261-2920

SUSAN L. ROSENBLUM CHIEF DEPUTY

September 26, 1990

Anthony J. DiPaula, Esquire 614 Bosley Avenue Towson, Maryland 21204

Re: Kenneth T. Bosley vs. County Board of Appeals, Baltimore County Pre-docke: No. 1188, September Term, 1990

Dear Mr. DiPaula:

Enclosed find a copy of an Order of this Court dated September 25, 1990, granting the motion filed on behalf of the appellee and dismissing the captioned appeal for the reason stated therein. The mandate of the Court will issue pursuant to Maryland Rule 8-606 (b).

Leslie D. Gradet Clerk

LDG:ls

Enclosure

cc: Mr. Kenneth T. Bosley Suzanne Mensh, Clerk Circuit Court for Baltimore County

> BALTO.-ANNAPOLIS AREA (301) 974-3646 WASHINGTON AREA (301) 565-0450

AFFIDAVIT

that it is my belief that a fair trial of the case between the law firm of Covahey & Boozer and this Appellant involving an Oil Commany can not be obtained in Baltimore County Courts at the same time that Senator Boozer serves in the Maryland State Senate.

knowledge, information and belief.

This is to certify that I, Kenneth T. Bosley, hereby state

I hereby certify that the above is true to the best of my

Cockeysville, Maryland 21030

CIRCUIT COURT FOR BALTIMORE COUNTY CIVIL GENERAL DOCKET 77 PAGE 181 CASE NO. 90CG581 ___ CATEGORY APPEAL **ATTORNEYS** KENNETH BOSLEY (KENNETH T. BOSLEY) Kenneth Bosley Box 334 Cockeysville, MD 21030 771-4316 COUNTY BOARD OF APPEALS OF BALTIMORE COUNTY IN THE MATTER OF: IN THE MATTER OF:
AMOCO OIL COMPANY for a Special Exception on Property
Located on Northwest Corner of York and Shawan Roads

Anthony J. DiPaula

Covahey & Boozer, PA

614 Bosley Ave (4) 828-9441 Fig. 21 Councilmanic District Founding Case So: 89-403-XA Bd of aprel 4 12/15 COSTS CV CEN 90581 A (1) Feb. 14, 1990 - Appellants Appeal fd. (2) feb. 15,1990- Certificate of Notice, fd. (3) Feb. 22,1990- Appellant's Petition, fd. CKCH**ECK TL** #76921 COO1 ROZ T1211 (4) Mar 15, 1990 - App of Anthony J. DiPaula for the Deft/Appellee AMOCO OIL COMPANY and Same Day Answer to Petition for Appeal fd. (5) March 16,1990 - Transcript of Record fd. (6) March 16,1990 - Notice of Filing of Record fd. (7) April 16, 1990 - Appellant's Motion for Extension of Time to File Memorandum (8) April 18,1990 - Order of Court that and Extension of Time for Appellance to File Memornaudm be Granted for a Period of 30 Days and that the Board of Appeals Reporter forward a copy of the transcript to the Appellant fd. (JWH) (9) May 15,1990 - Appellant's Memorandum, fd. (10) June 15, 1990 - Deft's AMOCO OIL COMPANY Memorandum Pursuant to Rule B-12 fd. o (11) July 12,1990 - Appellant's Petition and Affidavit for Removal, fd July 18, 1993 Hon. Joseph F. Murphy Jr. Hearing had. Plaintiff's/Appel ant's motion for renewal (p.#11)-Denied. The decision of the Board of Appeals is affirmed by this court for reasons stated on the Record.

> 181 OACC581

Board of Appeals by Kenneth T. Bosley, the Appellant herein, and after a hearing de novo before the Board resulting in a

second grant of the Petition, Mr. Bosley filed this Appeal.

The power of the Zoning Commissioner and/or his Deputy to consider petitions for special exception is provided in Section 500 of the Baltimore County Zoning Regulations ("BCZR") and Section 22-26 of the Baltimore County Code . The standards for the grant of such petitions are outlined in BCZR, Section 502.1. In the event a party feels aggrieved from a decision of the Zoning Commissioner or his Deputy, Section 22-28 of the Baltimore County Code provides for appeals to the County Board of Appeals. This right is further provided in Section 22-32 of the Code. As provided in BCZR, Section 501.6, appeals from the Zoning Commissioner to the Board of Appeals are heard de novo. The Board of Appeals therefore conducted its own evidentiary hearing which took place on January 5, 1990, at the conclusion of which, on January 16, 1990, the Board rendered its Opinion and Order granting the Petition for Special Exceptions. Appeals to this Court from decisions by the Board of Appeals are provided by Section 22-33 of the Baltimore County Code, which refers to Article VI of the County Charter, Section 604 which specifically grants the right of appeal to the Circuit

BALTIMORE COUNTY Case No.: 77/181/90CG581

KENNETH T. BOSLEY Appellant

KENNETH T. BOSLEY

Ms. Clerk:

Appeals.

MICROFILMED

COUNTY BOARD OF APPEALS

OF BALTIMORE CO.

NOTICE OF APPEAL

Please enter an appeal of the above entitled case from

I hereby certify that a copy of the above notice was mailed on the 15th day of August 1990, postage prepaid to F. Vernin Boozer, Esquire and Anthony J. DiPaula, 614 Bosley Avenue, Towson, Maryland,

21204 and to the County Board of Appeals of Baltimore County, County Office Building, Room 315, 111 W. Chesapeake Avenue, Towson, Maryland 21204.

the Circuit Court for Baltimore County to the Court of Special

COUNTY BOARD OF APPEALS OF

BALTIMORE COUNTY

IN THE MATTER OF THE APPLICATION OF AMOCO OIL COMPANY FOR A SPECIAL EXCEPTION ON PROPERTY LOCATED ON NORTHEAST CORNER OF YORK AND SHAWAN ROADS

3RD COUNCILMANIC DISTRICT ZONING CASE NO.: 89-403-XA * * * * * * * * * * *

APPELLEE'S MEMORANDUM PURSUANT TO RULE B-12

IN THE

FOR

CIRCUIT COURT

IN-THE CIRCUIT COURT

BALTIMORE COUNTY

Kenneth T. Bosley

Cockeysville, Maryland

Appellant

Boxx 334

Amoco Oil Company, one of the Appellees, by Anthony J. DiPaula and Covahey & Boozer, P.A., its attorneys, hereby files

this Memorandum of Law pursuant to Rule B-12.

This is an Appeal from the Baltimore County Board of Appeals granting two (2) special exceptions requested by Amoco Oil Company, one for an automotive service station (gas and go) facility, and the other for a convenience food store with less than 5,000 square feet of retail sales area as a combination use with the service station. The Petition for the Special Exceptions was originally heard and granted by the Deputy Zoning Commissioner, after which an Appeal was filed to the

> 34:01 MA 81 MUL 09 COUNTY BOARD OF APPEALS

AMOCO OIL COMPANY DESCRIPTION OF PROPERTY YORK ROAD AND SHAWAN ROAD 8TH ELECTION DISTRICT

BEING all of the land which by the hereinmentioned Deed dated June 15, 1978 and recorded in Liber 5900, page 513, was conveyed by Lawrence D. Pinkner and Roberta A. Pinkner to Stefani Cochran.



89-403-48

BALTIMORE COUNTY OFFICE OF PLANNING & ZONING

County Office Building 111 W. Chesapeake Avenue Towson, Maryland 21204

Your petition has been received and accepted for filing this 8th day of Pehruary , 1989.

MICROFILMED

Petitioner's Attorney F. Vermon Boozer

Petitioner Charles T. Foggrowicz , Received by: James E. Der Chairman, Zoning Plans Advisory Committee

ATE	5-1-89	ACCOUNT	K-01-015-000
		AMOUNT_\$	130.00
ECEIVED	Krayer	T. 35	9 T.L.
'08: <u></u>	Pag Andl	: <u>a ca</u>	SE # 89- 403

OFFICE OF FINANCE - REVENUE DIVISION MISCELLANEOUS CASH RECEIPT 2-01-615-600 AMOUNT \$ //4 14.34 RECEIVED F. Vannen Brown Testine & Advactising (17-403-X) B B 107****1443418 8124F VALIDATION OR SIGNATURE OF CASHIER

89-403-XA

Special Freshin & Veraise Amore Cil longery Location of property: NEILER YESK Y Shewer Posts + your Rd. oppose 15 Fre foodway on 1 Politioner

Baltimore County, by eatherty of the Zoning Act and Regulation of Baltimore County will hold a public hearing on the properly identified herein in Room 106 of

Variance from Section 413.2.1 to allow one (1) Business sign with an area of 183.02 sq. ft. in lieu of three (3) Business signs with a to be area of 100 sq. ft. as permitted In the event that this Publish is gravited, a building permit may be missed within the thirty (30) day appeal period. The Zorang Com**CERTIFICATE OF PUBLICATION**

TOWSON, MD., March 17, 1989 THIS IS TO CERTIFY, that the annexed advertisement was published in THE JEFFERSONIAN, a weekly newspaper published in Towson, Baltimore County, Md., once in each of ____ successive

5. Zahe Orlin

surros of sed permit during this period for good cause shown. Such request must be in writing and received in this office by the date of the having set above or preserved at the hearing. PO 10812 24 M27084 & ROBERT HAINES price \$ 114.34

CERTIFICATE OF PUBLICATION

THIS IS TO CERTIFY, that the annexed advertisement w published in TOWSON TIMES, a weekly newspaper published in Towson, Baltimore County, Md., once in each of ____ successive

weeks, the first publication appearing on Masch 16, 1987.

TOWSON TIMES

5. 20te Orlan

PO 10812 ug M27084 price \$114.34

provide, a halding ported to provide a halding ported to appear period. The Zoning Col-ministers with humans, orders

gened for good cause shown. Such request that be in writing and recurred in the office by the date of the hearing set above or presented at the hearing.

CIRCUIT COURT FOR BALTIMORE COUNTY

ASSIGNMENT OFFICE **COUNTY COURTS BUILDING** 401 Bosley Avenue P.O. Box 6754 Towson, Maryland 21285-6754

June 26, 1990 Mr. Kenneth Bosley, (PP) Box 334 . Cockeysville, Mi 21030

the same of the same and the same of the s

Anthony J. DiPaula, Egq County Board of Appeals Armold Jablon, Esq

KENNETH BOSLEY (KENNETH T. BOSLEY (VS. CO BOARD OF APPEALS OF BALTIMORE CO IN THE MATTER OF: AMDCO OIL CO, ET. AL.

ON THE FOLLOWING: Appeal: 1 hour

Please see the below notations.

UPON RECEIPT OF THIS NOTICE: Counsel shall contact each other immediately to conform calendars. Claim of not receiving notice will not

If the above Hearing Date is not agreeable to any counsel, a request for a postponement MUST BE MADE IN WRITING to the Assignment Office AS SOON AS POSSIBLE, with a copy to all counsel involved. <u>POSTPONEMENTS PRIOR TO 36 DAYS OF TRIAL</u> should be directed to the attention of Irene Summers. <u>POSTPONEMENTS WITHIN 36 DAYS OF TRIAL</u> must be made to the attention of the Director of Central Assignments-Joyce Grimm-887-3497.

SETTLEMENTS: If a settlement if reached prior to the hearing date, the assignment Office must be notified immediately. All settlements must be put on the record if no order of satisfaction is filed prior to trial.

Baltimore County Zoning Commissioner
Office of Planning & Zoning Towson, Maryland _1204 494-3353 J. Robert Haines

Date: 3/21/89

Dennis F. Rasmussen
County Executive

Amoco Gil Company

14520 Green Road

Baldwin, Maryland 21013 Petitions for Special Exception and Zoning Variance CASE NUMBER: 89-403-XA

NUC York and Shawan Roads 8th Election District - 3rd Councilmanic Petitioner(s): Fraco Oil Company HEARING SCHEDULED: WEDNESDAY, APRIL 12, 1989 at 11:00 a.m.

Please be advised that $\frac{\mathcal{F}_{144.34}}{\mathcal{F}_{144.34}}$ is due for advertising and posting of the above-referenced property. All fees must be paid prior to the hearing. Do not remove the sign and post set(s) from the property from the time it is posted by this office until the day of the hearing itself.

THIS FEE MUST BE PAID AND THE ZONING SIGN(S) AND POST(S) RETURNED ON THE DAY OF THE HEARING OR THE ORDER SHALL NOT BE ISSUED.

Please make your check payable to Baltimore County, Maryland and bring it along with the sign(s) and post(s) to the Zoning Office, County Office Building, Room 111, Towson, Maryland 21204 fifteen (15) minutes before your hearing is scheduled to begin.

Please note that should you fail to return the sign and post set(s), there will be an additional \$25.00 added to the above fee for each set not returned.

Very truly yours,

J. Robert Haines J. ROBERT HAINES Zoning Commissioner of

Baltimore County

F. Vernon Boozer, Esq.

Buitimore County Zoning Commissioner
Office of Planning & Zoning Towson, Maryland 21204 4543353 J. Robert Haines

NOTICE OF HEARING



Dennis F. Rasmussen

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County will hold a public hearing on the property identified herein in Room 106 of the County Office Building, located at 111 W. Chesapeake Avenue in Towson, Maryland as follows:

Petitions for Special Exception and Zoning Variance CASE NUMBER: 89-403-XA MUC York and Shawan Roads 8th Election District - 3rd Councilmanic Petitioner(s): Amoco Oil Company MEARING SCHEDULED: WEDNESDAY, APRIL 12, 1989 at 11:00 a.m.

Special Exception: An automotive service station (Gas-N-Go) purswant to BCZR Section 233.4, and a convenience food store with less than 5,000 sq. ft. of retail sales area in combination with the service station pursuant to BCZR Section 405.4.0.8. Wariance from Section 417.2.f to allow one (1) Business sign with an area of 183.02 sq. ft. in lieu of three (3) Business signs with a total area of 100 sq. ft. as permitted.

In the event that this Petition is granted, a building permit may be issued within the thirty (30) day appeal period. The Zoning Commissioner will, however, entertain any request for a stay of the issuance of said permit during this period for good cause shown. Such request must be in writing and received in this office by the date of the hearing set above or presented at the hearing.

1. Plat Hairea J. ROBERT HAINES

Zoning Commissioner of Baltimore County cc: Amoco Dil Company

F. Vernon Boozer, Esq. File



HEARING ROOM -

County Mourd of Appeals of Bultimore County

COUNTY OFFICE BUILDING 111 W. CHESAPEAKE AVENUE TOWSON, MARYLAND 21204 (301) 444-2480 887-3180 Room 301, County Office Bldg. September 25, 1989 NOTICE OF ASSIGNMENT

> NO POSTPONEMENTS WILL BE GRANTED WITHOUT GOOD AND SUFFICIENT REASONS. REQUESTS FOR POSTPONEMENTS MUST BE IN WRITING AND IN STRICT COMPLIANCE WITH BOARD RULE 2(b). NO POSTPONEMENTS WILL BE GRANTED WITHIN FIFTEEN (15) DAYS OF SCHEDULED HEARING DATE UNLESS IN FULL COMPLIANCE WITH RULE 2(c), COUNTY COUNCIL EILL NO. 59-79.

CASE NO. 29-403-XA ? AMOCO OIL COMPANY NW/corner York and Shawan Roads 8th Election District 3rd Councilmanic District SE -an automotive service station (Gas-N-Go)

> and a convenience food store 5/8/89 - D.Z.C.'s Order -GRANTING Petitions with restrictions

FRIDAY, JANUARY 5, 1990 at 10:00 a.m.

cc: Mr. Kenneth T. Bosley Appellant

Mr. Charles Bogdanowicz Petitioner

Amoco Cil Co. F. Vermon Boozer, Esquire Counsel for Petitioner Anthony J. DiPaula, Esquire

L. Rodney Compton Mr. Robert Hastings Mr. Richard Truelove

Ms. Sarah Adams

K. Webster Bosley Ms. Betty Griffin

Feeple's Counsel for Baltimore County F. David Fields Fat Keller J. Robert Haines

Ann M. Nastarowicz James E. Dyer W. Carl Richards, Jr. ✓Docket Clerk - Zoning Arnold Jablon, County Attorney

Lindalee M. Kuszmaul Legal Secretary

Baltimore County Zoning Commissioner Office of Planning & Zoning Towson, Maryland 21204 (301) 887-3353 J. Robert Haines Zoning Commissioner

May 2, 1989



Anthony J. DiPaula, Esquire 614 Bosley Avenue Towson, Maryland 21204

RE: Petitions for Special Exception and Zoning Variance NW/Corner York and Shawan Roads 8th Election District - 3rd Councilmanic District Amoco Oil Company - Petitioners

Case No. 89-403-XA (Item No. 31ⁿ)

Petitions for Special Exceptio: and Zoning Variance SE/S Belair Road, 32' NE of Raab Avenue (8809-8811 Belair Road) 11th Election District - 6th Councilmanic District Herman J. Nesline, et ux and Amoco Oil Company - Petitioners Case No. 89-406-XA (Item No. 311)

Dear Mr. DiPaula:

Enclosed please find copies of the Office of Planning comments on the above-captioned matters, dated April April 13, 1989 and April 12, 1989 respectively.

Please review said comments for each project and advise me as to whether or not your client will have any difficulty meeting the requirements set forth therein.

If you have any questions on the subject, please do not hesitate to contact me.

> Very truly yours, [MModerain

ANN M. NASTAROWICZ Deputy Zoning Commissioner for Baltimore County

cc: Case Files

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO: J. Robert Haines Zoning Commissioner

FROM: Pat Keller Deputy Director

SUBJECT: ZONING ADVISORY COMMENTS - 4/12/89

Case # 89-403-XA Item # 310 Amoco Oil Company

The Petitioner proposes a special exception for an automotive service station (Gas-n-go) with a convenience food store of less than 5,000 square feet as a use in combination and a variance to allow one business sign of 183.02 square feet in lieu of the permitted 100 square feet. In reference to this request, staff offers the following

DATE: 4/13/89

This property was rezoned in the 1988 Comprehensive Zoning Process (Issue No. 3-052). As a result of this issue, a deed restriction regarding the installation and maintenance of an evergreen tree buffer was recorded. The property obtained CRG approval for the site layout on March 23, 1989 (File No. VIII-538). The approved zoning plan should conform to the approved CRG plan and approved final landscape plan.

This office does not support the requested sign variance.

Compressed air and water should be provided.

File: A:41289.txt pg.3

MICROFILMED

Maryland Department of Transportation State Highway Administration

FEB 6 1389

...ZOMING OFFICE

Mr. J. Robert Haines Zoning Commissioner County Office Building Towson, Haryland 21204

Attn: Mr. James Dyer

Re: Baltimore County Amoco Oil Company Zoning Meeting of 2-7-89 N/W/C of York Road (MD 45) and Shawan Rd. (Item #310)

Dear Mr. Haines:

After reviewing the submittal for a special exception for an automotive service station and a convenience food store with less than 5,000 square feet of retail sales area in combination with the service station, we offer the following comment.

The plan must be revised to show the reconstruction of existing inlets along York Road and locating them at the proposed

It is requested this revision be made prior to a hearing date being set.

Also, we have forwarded this plan to our Highway Beautification Section, c/o Morris Stein (333-1642) for all corrents relative to a variance to allow one business sign with an area of 183.02 square feet in lieu of the three business signs with a total area of 100 square feet as permitted.

If you have any questions, please call Larry Brocato of this office at 333-1350.

Very truly yours,

Creston J. Mills, Jr., Chief Bureau of Engineering Access Permits

LB:max

cc: Mr. M. Stein (w-attachment) AFR Assoc., Inc. Mr. J. Ogle

MICROFILMED

My telephone number is (301) 333-1350 Teletypewriter for Impaired Hearing or Speech
383-7555 Baltimore Metro - 565-0451 D.C. Metro - 1-800-492-5062 Statewide Toll Free
707 North Calvert St., Baltimore, Maryland 21203-0717

Baltimore County Department of Public Works Bureau of Traffic Engineering Courts Building, Suite 405 Towson, Maryland 21204 494-3554

March 1, 1989

Mr. J. Robert Haines
Zoning Commissioner
County Office Building Towson, MD 21204



Dear Mr. Haines,

MICROFILMED

The Bureau of Traffic Engineering has no comments for items number 290, 297, 298, 309, 310, 311, 315, 317, 319, 320, 321, & 323.

Very truly yours,

- Michael STling -Michael S. Flanigan Traffic Engineer Assoc. II

MSF/lab

MAR 3 1989

ZONING OFFICE

Baltimore County Fire Department Towson, Maryland 21204-2586 494-4500 Paul H. Reincke

February 14, 1989

J. Robert Haines, Zoning Commissioner Office of Planning & Zoning Baltimore Councy Office Building Towson, Maryland 21204

Item No.: 310

Re: Property Owner: Amoco Oil Company

Location: NWC York and Shawan Roads

Dennis F. Rasmussen

Zoning Agenda: Meeting of February 7, 1989

Gentlemen: Pursuant to your request, the referenced property has been surveyed by this Bureau and the comments below marked with an "X" are applicable and required

() 1. Fire hydrants for the referenced property are required and shall be located at intervals or ____ feet along an approved road in accordance with Baltimore County Standards as published by the Department of Public Works.

() 2. A second means of vehicle access is required for the site.

to be corrected or incorporated into the final plans for the property.

() 3. The vehicle dead end condition shown at _____

EXCEEDS the maximum allowed by the Fire Department.

(3 4. The site shall be made to comply with all applicable parts of the Fire Prevention Code prior to occupancy or beginning of operation.

The bildings and structures existing or proposed on the site shall carply with all applicable requirements of the National Fire Protection Association Standard No. 101 "Life Safety Code," 1976 edition prior to occupancy.

() 6. Site plans are approved, as drawn.

() 7. The Fire Prevention Bureau has no comments at this time.

MICROFILMED

Zoning Commissioner County Office Building

Towson, Maryland 21204

May 31, 1989

Re: 89-400XA Petition for S.E. N.W. Cr. 1073 York & Shawan Roads

8th Dist- 3rd C. Amc to 011 Company

Dear Mr. Commissioner,

VERNER PLANE

Please enter an appeal of the above entitled case to the Board of Appeals of Baltimore County from the order of the Deputy Zoning Commissioner, Dated May 8, 1989.

> Kenneth T. Bosley Boxx 334 Cockeysville, Md. 21030 771-4316

Baltimere County Zarang Commissioner Office of Planning & Zoning Towsen, Maryland 21204 (311) 387-3353 J. Eckert Haines Zanag Communicar

June 22, 1989



County Office Building, Room 315 Towson, Maryland 21204 RE: Petition for Special Exception and Variance

Baltimore County Board of Appeals

NW/Corner York and Shawan Roads 8th Election District, 3rd Councilmanic District AMOCO OIL COMPANY - Petitioners Case No. 89-403-XA

Dear Board:

Flease be advised that an appeal of the Special Exception portion only in the above-referenced case was filed in this office on June 1, 1989 by Kenneth T. Bosley . All materials relative to the case are being forwarded herewith.

Please notify all parties to the case of the date and time of the appeal hearing when it has been scheduled. If you have any questions concerning this matter, please do not hesitate to contact this office.

> J. ROBERT HAINES Zoning Commissioner

JRH:cer

Enclosures

cc: Mr. Charles Bogdanowicz - Project Engineer Amoco Oil Company, 14520 Green Road, Baldwin, MD 21013 L. Rodney Compton, Real Estate Management Agent 12228 Fawn Haven Court, Ellicott City, ND 21043 Anthony J. DiPaula, 614 Bosley Avenue, Towson, MD 21204

Appeal - Case No. 89-406-XA (Special Exception portion appealed only) June 22, 1939 Page 2

Fichard Truelove, APR Associates 7427 Harford Road, Baltimore, MD 21234

Sarah Adams, 11424 York Road, Cockeysville, MD 21030

K. Webster Bosley, Box 585, Sparks, MD 21152 Kenneth T. Bosley, Dox 334, Cockeysville, MD 21030

People's Counsel of Baltimore County Ru. 304, County Office Bldg., Towson, Md. 21204

Petition for Special Exception and Variance (Special Exception Portion Only) NW/Corner York and Shawan Roads 8th Election District - 3rd Councilmanic District AMOCO OIL COMPANY - Petitioners Case No. 89-403-XA

Petition for Special Exception

Description of Property

Certificate of Posting

Certificate of Publication

Entry of Appearance of People's Counsel (None submitted)

Zoning Plans Advisory Committee Comments

Director of Planning & Zoning Comments

Petitioner's Exhibits: 1. Plat to accompany Petition

A. Drawing of sign 2. Plat to accompany Petition

3. 8 1/2 x 11 photograph of Amoco Station 4. No Exhibit "4" marked in file 5. 3 x 5 photograph of Amoco Station

Deputy Zoning Commissioner's Order dated May 8, 1989 (Granted w/ Restrictions)

Notice of Appeal received June 1, 1989 from Kenneth T. Bosley, interested party in this case.

cc: Mr. Charles Bogdanowicz - Froject Engineer Amoco Oil Company, 14520 Green Road, Baldwin, MD 21013

L. Rodney Compton, Real Estate Management Agent

12228 Fawn Haven Court, Ellicott City, MD 21043 Anthony J. DiPaula, 614 Bosley Avenue, Towson, MD 21204

Richard Truelove, APR Associates 7427 Harford Road, Baltimore, MD 21234

Sarah Adams, 11424 York Road, Cockeysville, MD 21030

K. Webster Bosley, Box 585, Sparks, MD 21152

Kenneth T. Bosley, Box 334, Cockeysville, MD 21030

People's Counsel of Baltimore County Rm. 304, County Office Bldg., Towson, Md. 21204

Docket Clerk

SALTIACOS COUNTY, MARILAND

Inter-Office Correspondence

Does this appeal order include any of the conditions of the

Zoning Hearing, or does it approve the appeal free of conditions?

88:0119 9-03005

Request Notification: P. David Fields, Director of Planning & Zoning Patrick Keller, Office of Planning & Zoning J. Robert Haines, Zoning Commissioner Ann M. Nastarowicz, Deputy Zoning Commissioner

James E. Dyer, Zoning Supervisor

A TORONAL MED

DATE: December 5, 1990

FREE of Countins

Linda Lee Kuszmaul

Baltimore County

beard of Appeals

John R. Alexander

SUBJECT: Case #89-403-XA (Amoco Oil Co.)

Loning Office

JRA/jat

AMOCO OIL COMPANY

August 15

NW/corner York & Shawan Roads

8th Election District 3rd Councilmanic District

-Service Station and convenience food store with less than 5,000 sq. ft. of retail sales area in combination with the service station.

February 8, 1989 Petition for Special Exception for service station and convenience food store with less than 5,000 sq. ft. of retail sales area. Order of the D.Z.C. GRANTING Petition with restrictions.

 $\int \widetilde{\mathcal{Q}}$ Order for Appeal to the Court of Special Appeals by Kenneth T.

May 8 June 1 Notice of appeal received from Kenneth T. Bosley, Protestant.

January 5, 1990 Hearing on appeal before the Board of Appeals (FRM). January 16 Opinion and Order of the Board GRANTING Petition.

February 14 Order for Appeal filed in CCt, BCo by Kenneth T. Bosley, Protestant. February 22 Petition to accompany appeal filed in CCt, BCo by Kenne' . Bosley,

February 15 Cert licate of Notice sent. March 16, 1990 √ Transcript of testimony filed; Record of Proceedings filed. July 18 Forder of Judge Joseph F. Murphy, Jr. AFFIRMING C.B. of A.

Bosley, Appellant/Protestant. September 25 \sqrt{k} Order of the Court of Special Appeals DISMISSING appeal.

County Moard of Appeals of Mallimore County COUNTY OFFICE BUILDING, ROOM 315

HEARING ROOM -Room 301, County Office Bldg. 111 W. CHESAPEAKE AVENUE TOWSON, MARYLAND 21204 (301) 887-3180

AFPEAL HEARINGS SCHEDULED FOR THE WEEK OF JANUARY 1, 1990

TUESDAY 1/2/90 10:00 a.m. THRASHER PROPERTY SW of Bexhill Road #CBA-89-158 2nd Election District 2nd Councilmanic District

RE: CRG Decision

WEDNESDAY 1/3/90 10:00 a.m. BRITANY II, Biscay Court Lots 59-63 #CBA-89-133 RE: Sediment Control Violations

WEENESDAY 1/3/90 11:30 a.m.ALLEN L. KUNDRATIC, ET UX

NE/s School Rd., 88' NE of c/l Church #89-434-A Rd. (8711 School Road) 9th Election District 6th Councilmanic District

VAR -storage of 2 recreational vehicles in lieu of permitted one WEDNESDAY 1/3/90 1:00 p.m. MARY KAY FRAIN

6720 Woodley Road #CEA-89-147 Baltimore, Maryland 21222

RE: Denial of Pool Permit THURSDAY 1/4/90 HEARING ROOM NOT AVAILABLE FOR CBA HEARING FRIDAY 1/5/90 10:00 a.m. AMOCO OIL COMPANY NW/corner York & Shawan Roads #89-403-XII

> 3rd Councilmanic District SE -service station; VAR -sign (Appeal from SE only)

8th Election District

AMOCO OIL COMPANY

York and Shawan Roads

This site agrees with the plan on file in Zoning Case #89-403-XA; since. this

site was the subject of this zoning public hearing which was granted on January

10, 1990 by the Board of Appeals, provide a zoning history by case number on

the plan including the date of the last Order, what was requested, granted or

denied and listing and indicating compliance with any restrictions including,

Final zoning approval is contingent first, upon all plan comments being

addressed on the C.R.G. plan; and secondly, upon the final resolution of all comments, the outcome of any requested zoning hearings and finally, the

inclusion of the blue commercial checklist information being included on the

Any requests for further information from the Zoning Office must include a reference to the CRG Plan Extension Review and written correspondence or

but not necessarily limited to, case numbers 89-403-XA.

revised plans must be accompanied by a copy of these comments.

cc: Executive Office County Council Law Office Fecgle's Counsel Flanning Office Current Planning Board Members Court Reporter Imformation Desks (2) Docket Clerk - Zoning

CRG Plan Approval Extension Review

Revised Plan Date: 11/6/91

Comments Completed: 11/20/91

building permit site plans.

Comments For: 11/26/91

Comments Cate: 11/20/91

BALTIHORE COUNTY, HARYLAND Inter-Office Correspondence

TO: John R. Alexander Zoning Office

DATE: December 5, 1990

FROM: Kathleen C. Weidenhammer Board of Appeals

SUBJECT: Case #89-403-XA (Amoco Oil Co.)

Attached is Acting Chairman Foreman's answer to the question asked in your memorandum of December 5, 1990 concerning the subject case and the Board's Order regarding same.

Attachment

89-403-XA

INTER-OFFICE CORRESPONDENCE

Mr. Powell / EIRD

Mr. Pilson / WES Mr. Flowers / CBCA

Mr. Bowling / DED (2) Mr. Famili / Traffic Mr. Weiss / Sanitation

Mr. Beaumont / Land Acq. Ms. Lutz / House Nos. Capt. Kelly / Fire Dept.

Mr. Kincer / Rec.&Parks Mr. Brocato / SHA

Mr. Keller / OPZ Deputy Director (FYI)

Bureau of Public Services

SUBJECT: District: 8C3 Project Name: Amoco Oil Co. - York And Shawan Roads

ACTION REQUESTED:

CRG Plan Review (Meeting Waived) : CRG Non-Material Amendment Review : CRG Plan Approval Extension Review:XX Panhandle Minor CRG Plan Review

NOV 1 3 1991

Pre-Approved Building Permits: No

NOTE: Please detail any comments where permit cannot be approved, but subdivision approval is acceptable.

Please review the attached plan for compliance with current regulations and return comments to our office by 11/26/91; If you have no comments or do not need to review this plan, please indicate by placing your initials here ____.

Thank you for your attention to our request.

cc: File

BALTIMORE COUNTY, MARYLAND

Mr. Wirth / SWM (2) (Pre-App Permit only) DATE: November 8, 1991

Mr. Maranto / Planning Richards / Zoning

Mr. Butcher / CEP

Susan Wimbley

Project No.: 89051 Engineer: APR Associates, Inc. Phone No.: 444-4312

CRG Plan Refinement Review

Minor Subdivision Review

Please provide separate comments for Building Permits.

3/23/69.

HRNG.

JL:scj

cc: Ourrent Planning Zoning File - 89-403-XA Waiver File

BALTIMORE COUNTY, MARYLAN

SUBJECT: COUNTY REVIEW GROUP COMMENTS ZONING OFFICE

PROJECT NAME: Amoco Cil Company

PLAN: 2/22/89

DATE: 3/23/89

LOCATION: NW/cor York Road and Shawan Road REV.: 3/14/89 REV.:

REVISED PLAN KEY: (X) COMPLIANCE WITH COMMENT CHECKED

DISTRICT: 8c3

(0) NON-COMPLIANCE IS CIRCLED (BA) BE ADVISED (NOT NECESSARY FOR CRG APPROVAL, BUT MUST BE ADDRESSED PRIOR TO FINAL ZONING APPROVAL) ADDITIONAL COMMENTS ADDED LAST BY PLAN DATE

A special exception zoning hearing is required to permit an Automotive Service Station in a B.N.-I.M. zone. The following comments are made for the C.R.G. plan and zoning hearing plan and application:

1. Provide complete Section 405 (B.C.Z.R.) notes on the plan under "Zoning S.405" notes". Include complete elevations, size, height, illumination, and keyed location of all signs proposed; including free-standing, pump, spreader bar, building and canopy signs. Dimension F/S sign overhang from the street R/W [6] ft. setback required). Provide site area calculations in sq. ft. after street widening and correct listed setbacks to widening line, enlarge zoning notes (s.405) on the planwill be urreatable after microfilm reduction. Note that the only other signs proposed are building signs or carcyy facia signs.

2. Identify fuel servicing, parking spaces (S), waiting spaces (W), and employee spaces (E) on the plan with a key in the notes. Dimension parking spaces and setback from street widening.

3. Include all zone lines on the plan print as per the 1"=200' zoning map #NW-19B and include a 1"=200' vicinity map. Note that all parking and maneuvering areas will be paved (indicate type) and permanently striped.

4. When the plan is revised through the C.R.G. process, comments addressed, and any additional conflicts with the B.C.Z.R. identified, this final revised plan should be included with the zoning hearing application. Final zoning approval is contingent upon the outcome of the public hearing.

Zoning Coordinator

BALT RE COUNTY DEPARTMENT OF ENVIRONMENTAL OTECTION AND RESOURCE MANAGEME Zoning Commissioner Office of Planning and Zoning County Office Building Towson, Maryland 21204 Zoning Item # 310, Zoning Advisory Committee Meeting of February 7, 1989 Property Owner: Ameco Oil Company
Location: NWC York and Shawan Reads District: 8 COMMENTS ARE AS FOLLOWS: Prior to approval of a Building Permit for construction, removation and/or installation of equipment for any existing or proposed food service facility, complete plans and specifications must be submitted to the Plans Review Section, Bureau of Regional Community Services, for final review and approval. () Prior to new installation(s) of fuel burning equipment, the owner shall contact the Bureau of Air Quality Management, 887-3775, to obtain requirements for such installation(s) before work begins. (1) A permit to construct from the Bureau of Quality Management is required for such items as spray paint processes, underground gasoline storage tank(s) (5,000 gallons or more) and any other equipment or process which exhausts into the atmosphere. () A permit to construct from the Bureau of Air Quality Management is required for any charbroiler generation which has a total cooking surface area of five (5) square feet or more. Prior to approval of a Building Permit Application for renovations to existing or construction of new health care facilities, complete plans and specifications of the building, food service area and type of equipment to be used for the food servic peration rust be submitted to the Plans Review and Approval Section, Division of Engineering and Maint. snce, State Department of Health and Mental Hygiene for () Prior to any new construction or substantial alteration of public swirming pool, wading pool, bathhouse, saunas, whirlpools, hot tubs, water and sewerage facilities or other appurtenances pertaining to health and safety; two (2) copies of plans and specifications must be submitted to the Baltimore County Department of Environmental Protection and Resource Management for review and approval. For more complete information, contact the Water Quality Monitoring Section, Bureau of Regional Community Services, 687-6500 x 315. Prior to approval for a nursery school, owner or applicant must comply with all Baltimore County regulations. For more complete information, contact the Division of Maternal and Child Health. If lubrication work and oil changes are performed at this location, the method providing for the elimination of waste oil must be in accordance with the State Department of the Environment. (Prior to razing of existing structure(s), petitioner must contact the Division of Waste Management at 887-3745, regarding removal and/or disposal of potentially hazardous materials and solid wastes. Petitioner must contact the Burezu of Air Quality Management regarding removal of asbestoes, 887-3775. Any abandoned underground storage tanks containing gasoline, waste oil, solvents, etc., must have the contents removed by a licensed hauler and tank removed from the property or properly backfilled. Prior to removal or abandoment, owner must contact the Division of Waste Management at 887-3745. Soil percolation tests, have been _____, must be _____, conducted. () The results are valid until () Soil percolation test results have expired. Petitioner should contact the Division of Water and Sewer to determine whether additional tests are required. () Where water wells are to be used as a source of water supply, a well meeting the minimum Baltimore County Standards must be drilled. () In accordance with Section 13-117 of the Baltimore County Code, the water well yield test () is not acceptable and must be retested. This must be accomplished prior to conveyance of property and approval of Building Permit Applications. If submission of plans to the County Review Group is required, a Hydrogeological Study and an Environmental Effects Report must be submitted. For more information contact the Division of Environmental Management In order to subdivide this property, the owner or developer will be required to comply with the subdivision regulations of the State of Maryland and Baltimore County. If there are any questions regarding the subdivision process, please contact the Land Development Section at 887-2762.

ZONING OFFICE

The Petitioner proposes an special exception for an auto-motive service station (Gas n-go) and a convenience food store of less than 5,000 sq fl as a use in combination. F. and

a variance to allow one husiness sign of 183.02 sq ft in him of the permitted 100 sq ft. In reference to this request, steff offers the following comments:

Theo property was the Street regoned in the 1988 Computersive Zoning Process (Issue No 3-052). As a result of this issue,

a deed restriction regarding the installation and maintainance

of an evergreen tree kuffer was recorded. The property obtained

the CRG approval for the site layout on March

23, 1989 (VIII. 538). The approved coning plan 5 hould

conform to the approved CRG plan and approved finel

This office does not support the requested sign variance.

58031 PAGELLIS 10/13/88:fvb 903.ja DECLARATION FOR RESTRICTIVE COVENANTS THIS DECLARATION, made this 3/2t day of October, 1988, by/Amoco Oil Company, a Maryland Corporation, hereinafter referred to as "Amoco", WITNESSETH: WHEREAS, Amoco is the fee simple owner of a lot of ground in Baltimore County, Maryland, situate on the northwest corner of Shawan and York Roads, Baltimore County, Maryland, containing 0.844 acres of land, more or less. Said lot of ground is more fully describe? in a Deed dated March 28, 1988, to said Amoco and recorded in the Land Records of Baltimore County in Liber S.M. No. 7827, folio 729 (said lot of ground and improvements thereon as described in the foregoing deed being hereinafter referred to as the "Subject Property"); and WHEREAS, Amoco desires to have the Subject Property Rezoned from BL to BM-IM; and WHEREAS, in order to facilitate said rezoning and allow for the construction of a modern well-landscaped motor fuel station, Amoco has agreed to make the Subject Property subject to Restrictive Covenant as hereinafter set forth. NOW, THEREFORE, THIS DECLARATION WITNESSETH: That Amoco for itself, its successors and assigns, in consideration of \$1.00 and these presents the receipt of both of which are hereby acknowledged, hereby imposes upon the Subject Property, the following Restrictive Covenant which shall run with and be binding upon the Subject Property and all present and future owners

thereof:

RECEIVED FOR TRANSFER

Director of Finance

PALTHYDRE COUNTY MARYLAND

Por Multiplical Signature

Date 17 1 21 20 20 11-85 State Department of Assessments & Taxation for Baltimore Covery ACRICULTURAL TRANSFER LA

MICROFILMED

THANSFER TAX NUT REGURED

COVAHEY & BOOZER, P. A. WAS TA BYSHROTTA GI4 BOSLEY AVENUE TOWSON, MARYLAND 21204 AREA CODE 301

EDWARD C COVAHET, JE F VERNON BOOZER MARK S DEVAN ANTHONY J. DIPAULA

FAX 301-296-2131

828-944

BREPLY 19: ANNER OFFICE BUITE 101 606 BALTIMORE AVE. TOWSON, MD 21204 AREA CODE 301 820-8525

april 25, 1989

ZONING OFFICE

RE: PETITION FOR SPECIAL EXCEPTION AND ZONING VARIANCE CASE NO.: 89-403-XA YORK AND SHAWAN ROADS PETITIONER: AMOCO OIL COMPANY

Dear Mrs. Nastarowicz:

HAND DELIVERED

Ann M. Nastarowicz

Baltimore County

Deputy Zoning Commissioner

County Office Building

111 W. Chesapeake Avenue Towson, _ryland 21204

Pursuant to the hearing held on April 12, 1989 with respect to the above Petitions, enclosed please find a copy of the Declaration for Restrictive Covenants which was introduced as Exhibit No. 4 at the hearing on the above Petitions. In addition, as with the other case which was heard on the same day and time, enclosed please find copies of the sign and light standard materials which Amoco has available. The sign as depicted on the enclosures is somewhat smaller than the one depicted on the site plan filed in the case, and these two signs are the only two which Amoco has available.

MICROFILMED

AGD M. Nastarowicz April 25, 1989

Please advise if you require any additional

Very truly yours,

AJD/cab 25°cb.3

> cc: C.T. Bogdanowicz Mr. Kenneth H. Bosley Ms. Sarah H. Adams

PLEASE PRINT CLEARLY COPKNISVIK MD. 21030 K. WelzterBosley Pex 585 Sparts MD 2115> KENNETH T. BOSLEY 30x 334 COCKEYSVILLE, MD. 21030 4/12 AMOCO New Laray 25 w. Chest. Perke A.E Towson 10 21204

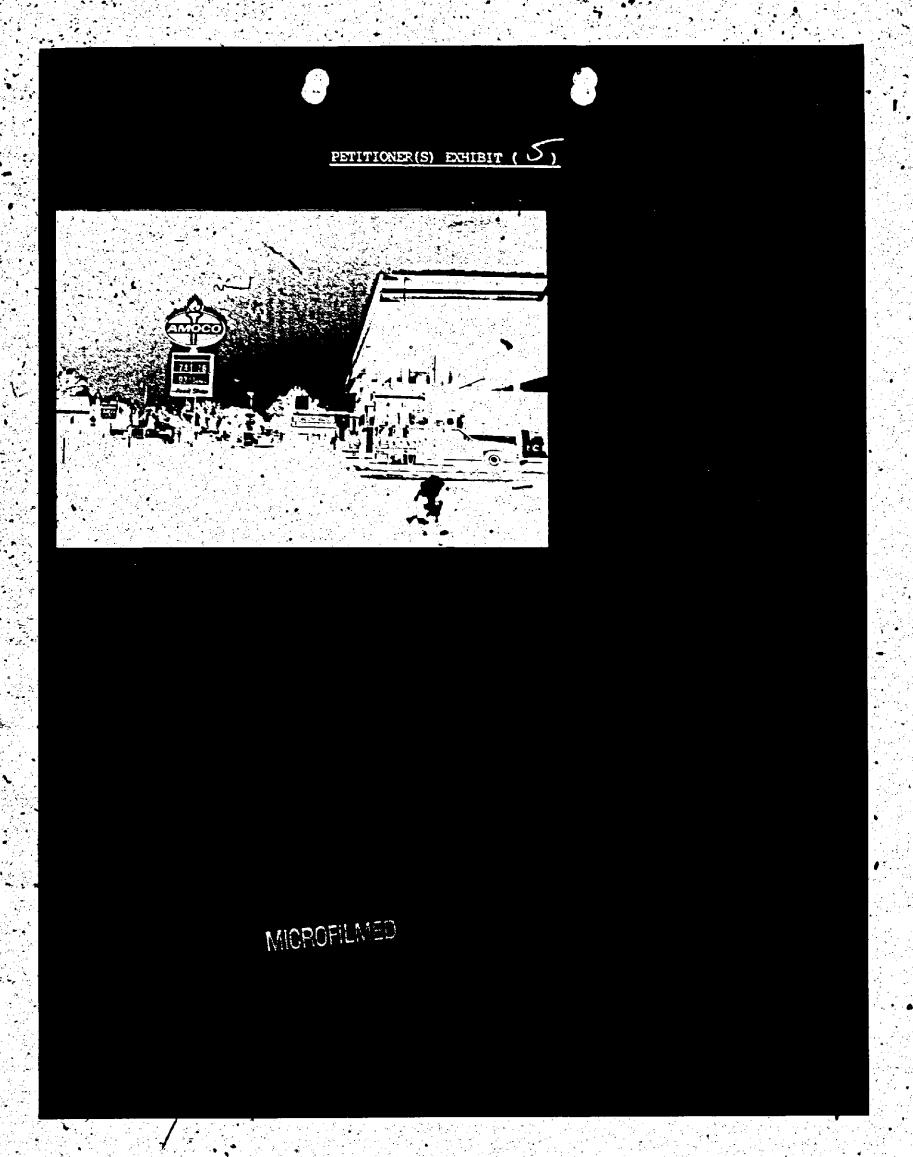
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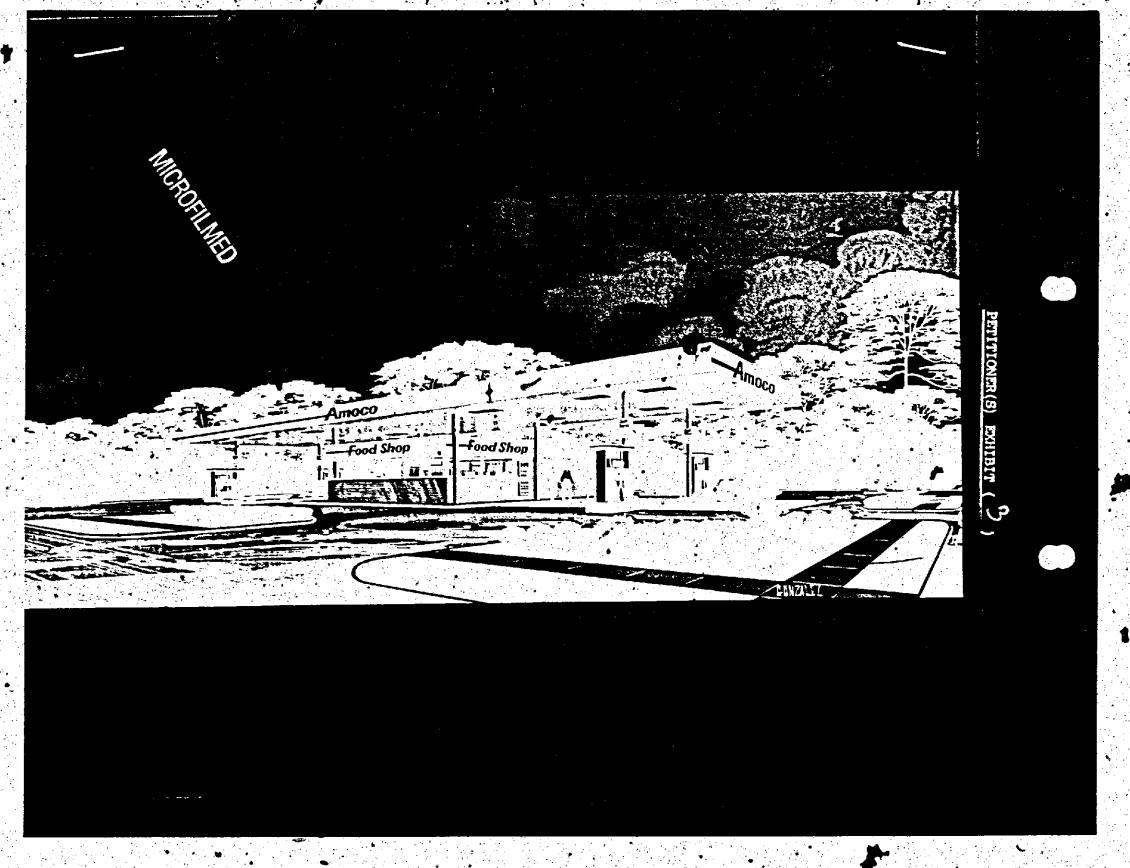
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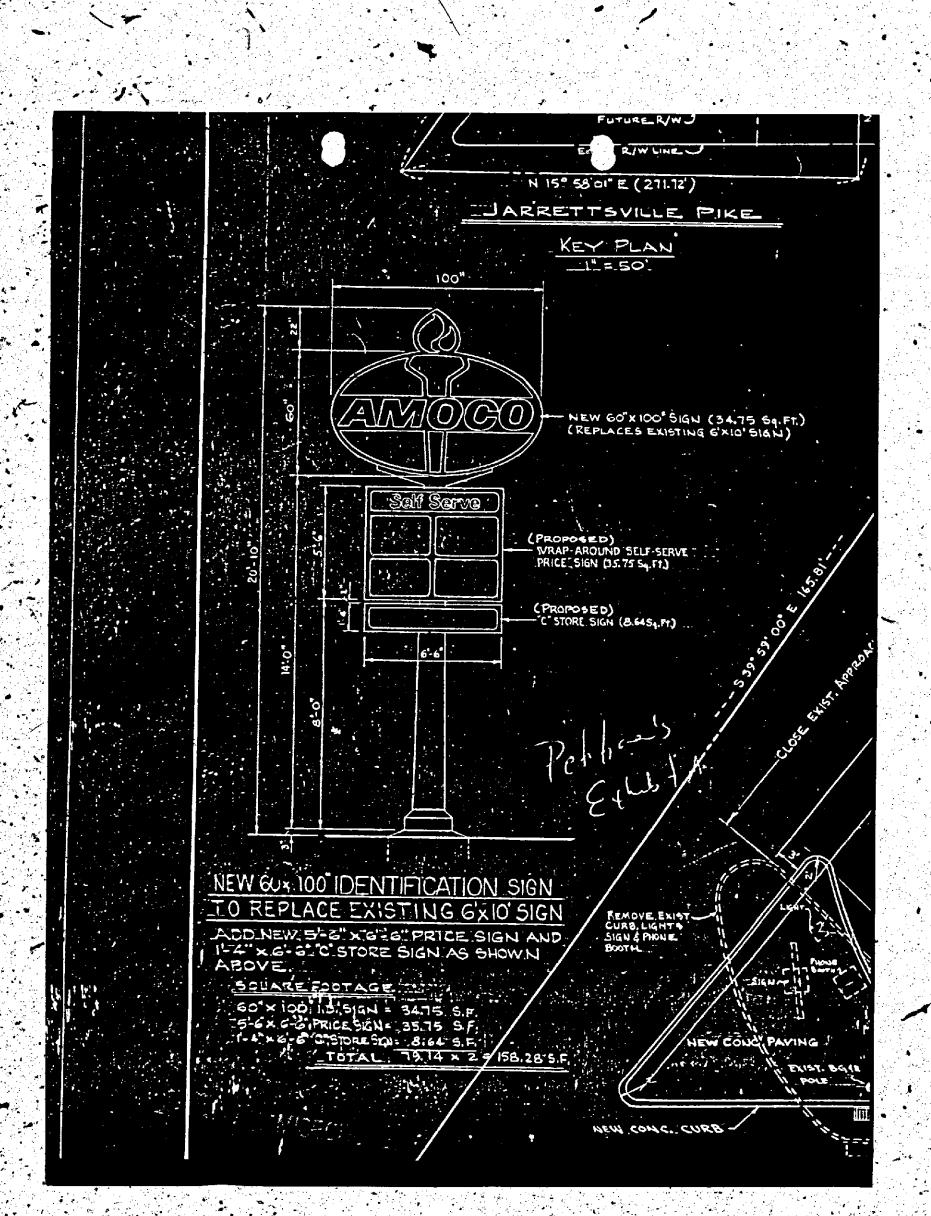
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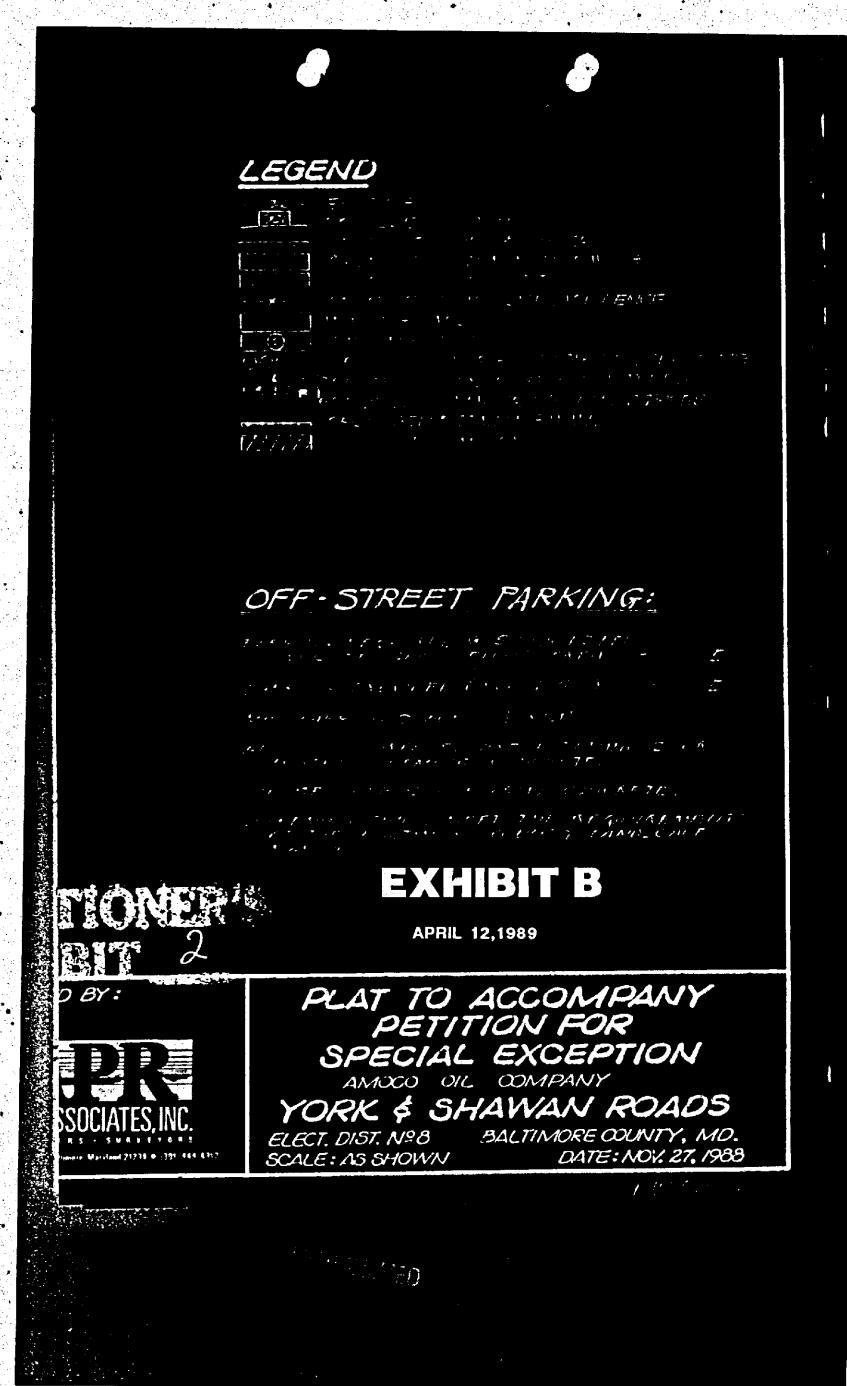
Be Amoco Oil Co Stim 310, Case No 89 - 403-XA

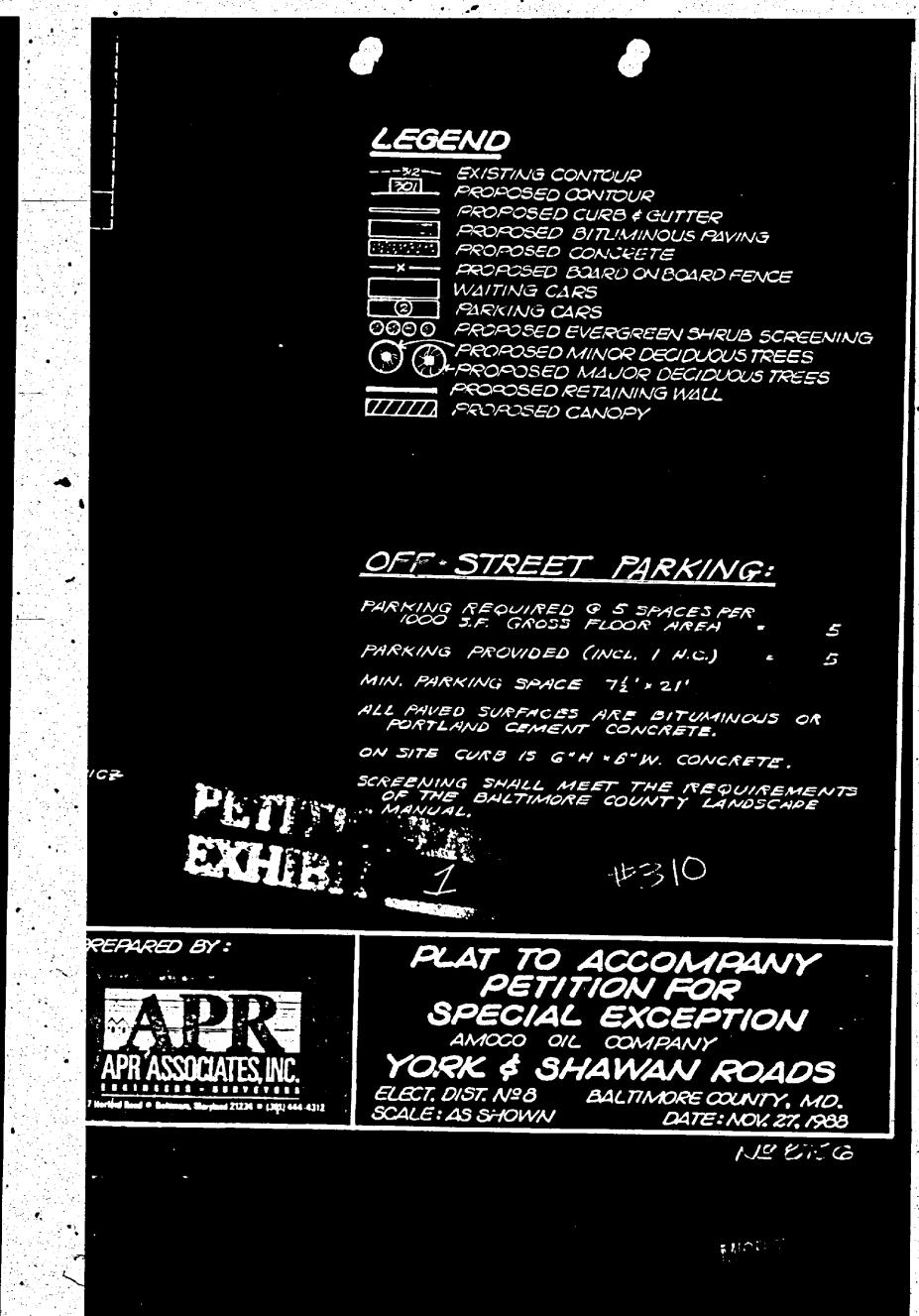
landscape plan

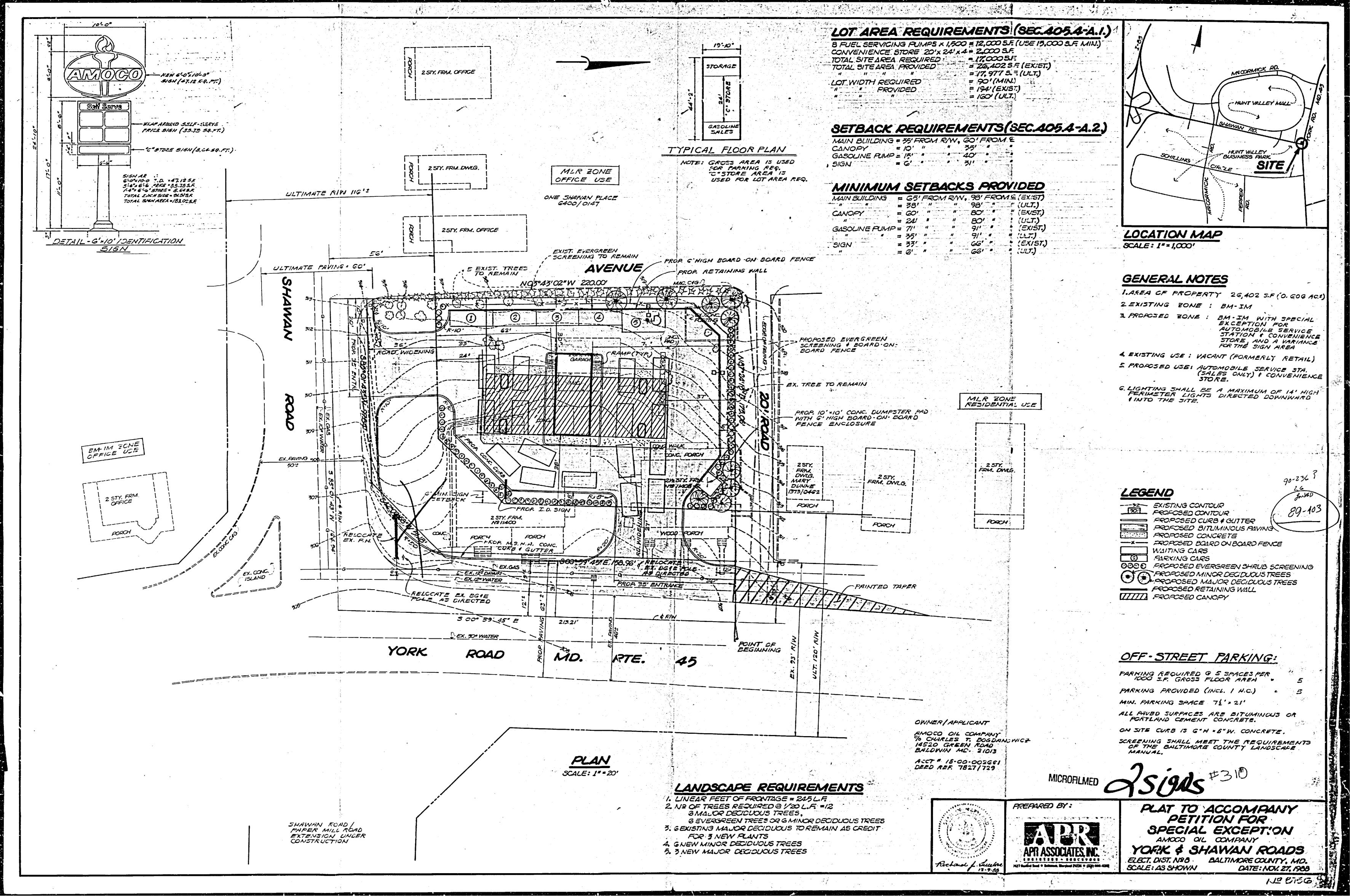












Court. The review by this Court is on the record created before the Board.

Appellant raises four (4) points in his Memorandum upon either of which this Court should reverse the decision of the Board of Appeals. Succinctly stated, Appellant's complaints are:

- 1. That Amoco will in fact be conducting a food preparation operation which will cause its patrons to utilize Mr. Bosley's property;
- 2. Amoco must ' ve rest rooms as required by law and to prevent its customers from trespassing upon Mr. Bosley's
- 3. The site plan approved by the Board had material changes than that which had been reviewed by the County Review Group ("CRG") and the Zoning Commissioner;
- 4. The proposed use will create traffic congestion. Unfortunately for Mr. Bosley, the only evidence in the record relating to any of his objections relates to point No. 4 and the alleged impact the proposed improvements will have on traffic in the immediate area. Otherwise, the record is totally devoid of any evidence to support the other claims he makes in his Memorandum or in his Petition for Appeal.

To address the various points, however, to the extent necessary, the record is clear that Appelles will not be conducting a food preparation operation on the subject site. This was a specific finding by the Board, contained in its Opinion, and based upon the evidence presented. Mr. Bosley's recitation of how he envisions this presumed food preparation facility having an adverse impact on his property with its resultar illegally parked vehicles, trash and debris, and steady stream of trespassers, come only from the Appellant's imagination and not from any evidence in the record which the Board was supposed to have considered.

The absence of rest rooms in the proposed site is, according to Mr. Bosley, "quite contrary to the intent and spirit of Section 502.1 of the Baltimore County Zoning Regulations", and "detrimental to the health, safety, and general welfare of the locality and public". Again, besides not being raised below, the Board was of the opinion that the proposed improvements and use would not be contrary to any of the standards contained in Section 502.1, including that it would not be detrimental to the health, safety and general welfare of the locality and public, "... there has been no reason given this Court why the Board's finding in that respect

should be considered arbitrary, capricious, or unsupported by substantial evidence considering the entire record as a whole.

Again, without making any mention before the Board, Mr. Bosley comes before this Court complaining of certain procedural irregularities, including but not limited to a claim that the Plan considered at the hearing and approved by the Board of Appeals was a different plan than had been considered or approved by the Deputy Zoning Commissioner or the County Review Group. The record is clear that the Plan presented to the Board and from which the various witnesses testified was nothing more than the Plan introduced at the hearing before the Deputy Zoning Commissioner, with the minor changes and revisions required by the County Review Group incorporated therein. As found by the Board on page 1 of its Opinion, it was in fact the same plan approved by the County Review Group i on March 23, 1989, subject to zoning approvals.

Mr. Bosley also considers it a procedural irregularity that the Board's Order does not contain certain restrictions which were included in the Deputy Zoning Commissioner's grant of the Petition for Special Exceptions, specifically signs with height of twelve (12) feet instead of fourteen (14) feet, and free compressed air and water for its customers. Unfortunately, Mr. Bosley must realize that the hearing before

the Board is de novo, and the Board is not bound by anything that transpired below. The issue of compressed air and water is really a non-issue because one of the witnesses for Amoco Oil Company, L. Rodney Compton testified on cross-examination by Mr. Bosley that Amoco always provides free compressed air and water, not due to any order or direction by the local authorities, but because it is Amoco policy to do so. With respect to the height of the signs, if Mr. Bosley never requested the Board to impose such a restriction, he cannot now be heard to complain that no such restriction was imposed. Obviously, the Board did not find any merit in Mr. Bosley's claim that he would be able to see the lights on the site from his property some mile or so away.

Mr. Bosley's final complaint is that of alleged traffic congestion which will be created by the proposed use. He contends that the proposed entrances/exits will be dangerous, and believes that because Amoco Oil Company has not yet received an access permit from the State Highway Administration, that the Petition for Special Exceptions should have been denied. There is nothing in BCZR, Section 502.1 that requires the issuance of an access permit before a Petition for Special Exception can be granted. Essentially, it is a matter of first things first. Once the zoning approvals are received,

final CRG approval granted, and building permits applied for, it is then time to apply for various other permits before construction can begin. While an access permit may be denied at sometime in the future, that is a matter better left for the State Highway Administration, and not something to be considered by the Board of Appeals. The Board obviously found the absence of such a permit to be irrelevant, and decided that the standards of BCZR, Section 502.1 have been met.

The law is well settled in Maryland that a court will not substitute its judgment in a zoning case as to the soundness of an action taken by a zoning board if the question decided by the Board was fairly debatable and its action is not shown to have been arbitrary, capricious, or illegal. Furthermore, the action of the Zoning Board is to be sustained if, on the evidence presented, the matter is fairly debatable and the facts presented are sufficient to support the decision. The court will not set aside a decision by a zoning board if there is substantial evidence to justify the Board's findings and the decision is not arbitrary, capricious or discriminatory. Crowther, Inc. v. Johnson, 225 Md. 379 (1961); Frdman v. Board of Zoning Appeals of Baltimore County, 212 Md. 288 (1957).

Considering the Standard of Review, and the reasons presented for reversal of the Board of Appeals (most of which have been waived by not having been raised below), there has been no showing or even a proffer as to how the Board's decision was in any way arbitrary or capricious. Furthermore, there is overwhelming evidence in the record to support the Board's decision.

For all of the above reasons, it is respectfully submitted that the decision of the Board of Appeals of Baltimore County be affirmed.

Respectfully submitted,

Covahey & Boozer, P.A. 614 Bosley Avenue Towson, Maryland 21204 (301) 828-9441

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this $\frac{1}{2}$ day of June, 1990, a copy of the aforegoing Appellee's Memorandum Pursuant to Rule B-12 was mailed, first class, postage prepaid, to: The County Board of Appeals of Baltimore County, County Office Building, Room 315, 111 W. Chesapeake Avenue, Towson, Maryland 21204 and Kenneth T. Bosley, Box 334, Cockeysville, Maryland 21030.

90-06-20.CJ

KENNETH T. BOSLEY * IN THE * CIRCUIT COURT COUNTY BOARD OF APPEALS OF FOR BALTIMORE COUNTY APPELLEE * BALTIMORE COUNTY IN THE MATTER OF THE APPLICATION OF AMOCO OIL COMPANY FOR A SPECIAL EXCEPTION ON PROPERTY LOCATED ON NORTHWEST CORNER OF YORK AND SHAWAN * Folio No. <u>181</u> 8TH ELECTION DISTRICT 3RD COUNCIMANIC DISTRICT * File No. <u>90-CG-581</u>

ORDERED, that on the 12 day of April, 1990 that an extension of time for Appellant to file a Memorandum be granted for a period of 30 days and that the Board of Appeals Reporter forward a copy of the transcript to the

* * * * * * * * * * *

True Copy Test

FILED APR 181990

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⇒ IN THE KENNETH T. BOSLEY APPELLANT * CIRCUIT COURT COUNTY BOARD OF APPEALS OF BALTIMORE COUNTY ★ BALTIMORE COUNTY APPELLEE IN THE MATTER OF THE APPLICATION = OF AMOCO OIL COMPANY FOR A SPECIAL EXCEPTION ON PROPERTY LOCATED ON CG Doc. 77 NORTHWEST CORNER OF YORK AND SHAWAN ★ Folio No. 181 8TH ELECTION DISTRICT 3RD COUNCIMANIC DISTRICT ⇒ File No. 90-CG-581

MOTION FOR EXTENSION F TIME TO FILE MEMORANDUM

Appellant, Kenneth T. Bosley, motions for an extension of time of 30 days to file a memorandum. The Board's Reporter has not yet forwarded a copy of the transcript of the hearing held before the County Board of Appeals of Baltimore County. The Board's Reporter, Carolyn Peatt has advised Appellant on several occasions that she would forward the transcript. Appellant has paid the Board's Reporter in full for a copy of the transcript. Under Rule B-12. Memoranda, "Appellant shall file a memorandum setting forth a concise statement of all issues raised on appeal and argument on each issue, including

Amoco Oil Company, File No. 90-CG-581

entered into evidence before the board.

cc: Mr. Kenneth T. Bosley

F. Vernon Boozer, Esquire Anthony J. DiPaula, Esquire

Mr. Charles Bogdanowicz - Amoco Oil Company

March 16, 1990 Transcript of testimony filed.

February 15, 1990 Certificate of Notice sent to interested parties.

Case No. 89-403-XA

40:11:13 FI 594.02

Petitioner's Exhibit No. 1 - Final Plan for site incl. vicinity

Record of Proceedings filed in the Circuit Court for Baltimore

Respectfully submitted,

Linda Lee M. Kusymaul

LindaLee M. Kuszmaul, Legal Secretary

County Board of Appeals of Baltimore County

Record of Proceedings pursuant to which said Order was entered and upon

which said Board acted are hereby forwarded to the Court, together with exhibits

Associates.

" 2 - Color architectural rendering

map, revised date 1/5/90 by APR

general visual of planned site.

citations of legal authorities and references to pages of the transcript and exhibits relied on." It is essential for Appellant to have the transcript to prepare a memorandum.

Appellant as an affected party, has many concerns about the Appellee's proposed use of the property. There has been significant changes in Appellee's Site Plan and proposed use between the Zoning Commissioner's hearing and the Board hearing. Under Sec. 603, RULES OF PRACTICE AND PROCEDURE, of the Baltimore County Code, "All hearings held by the Board shall be heard de novo..." Appellant has an indispensable need to reference the transcript in his Memorandum since Appellee's Application for a Special Exception was made de novo at the Board hearing by law.

Appellant must also make references to the exhibits placed into the record at the Board hearing. Appellant would be prejudiced in preparing the Memorandum without the transcript as there has been a number of Site Plans prepared by the Appellee with inappropriate title blocks and change blocks and Appellant must discern what the Appellee's current Application for Special Exception consists of now.

WHEREFORE, Appellant requests an extension of time of 30 days to file a Memorandum.

> P.O. Box 334 Cockeysville, Maryland 21030 771-4316

CERTIFICATE OF COMPLIANCE

I hereby certify that a copy of the aforegoing MOTION FOR EXTENSION OF TIME TO FILE MEMORANDUM was mailed on the 16 th day of April, 1990, postage prepaid to: F. Vernon Boozer, Esquire and Anthony J. DiPaula, Esquire, Covahey & Boozer, P.A., 614 Bosley Avenue, Towson, Maryland 212', and to the County Board of Appeals of Baltimore County, County Office Building, Room 315, 111 W. Chesapeake Avenue, Towson, Maryland 21204.

> P.O. Box 334 Cockeysville, Maryland 21030 771-4316

CIRCUIT COURT Appellant COUNTY BOARD OF APPEALS OF BALTIMORE COUNTY Appellee IN THE MATTER OF THE SPECIAL EXCEPTION ON PROPERTY LOCATED ON NORTHWEST CORNER ZONING CASE NO.: 89-403-XA * * * * * * * * * *

Amoco Oil Company, one of the Appellees, by Anthony J. DiPaula and Covahey & Boozer, P.A., its attorneys, in Answer to

- 1. That the Petition fails to state a claim upon which relief can be granted.
- 2. That it admits the allegations of paragraph 1 of the Petition.
- That it admits the allegations of paragraph 2 of
- 4. That it lacks sufficient knowledge or information

10 MIN 10 1 MIN 10 1

paragraph 3 of the Petition, and furthering answering does not know what that paragraph is supposed to be alleging. 5. That it enters a general denial as to the

- allegations of paragraph 4 of the Petition, but further answering states that none of the allegations thereof, even if true or proven, are of any consequence to these proceedings.
- 6. That it would generally deny the allegations of paragraph 5 of the Petition with the exception that testimony was produced that there would be no food preparation on site, and that is in fact the case. The remaining allegations of that paragraph are denied and otherwise deemed irrelevant to these proceedings.
- 7. That it generally denies the allegations of paragraph 6 of the Petition, and further answering, specifically denies the legal conclusion or opinion alleged
- 8. That it generally admits the allegations of paragraph 7 of the Petition, but further answering states that no request was made by the Appellant below to impose or adopt any of the restrictions placed upon the grant by the Deputy Zoning Commissioner, and since the case was heard de novo, the Board was absolutely permitted to grant the Petition upon the plan submitted. Essentially, Appellant should have left well

enough alone.

- 9. That it denies the bald, unsupported, and conclusory allegations of paragraph 8 of the Petition.
- 10. That it denies the allegations of paragraph 9 of the Petition, and would further answer that there was no proof adduced at the hearing that would substantiate the allegations of that paragraph.
- 11. That inasmuch as paragraphs 10 and 11 are essentially prayers for relief, the allegations of those paragraphs can neither be admitted nor denied.
- 12. That further answering, the decision of the Board of Appeals was consistent with the law, in accordance with the Baltimore County Zoning Regulations, and was otherwise supported by substantial, material and competent evidence, especially when viewing the entire record as a whole. In addition, the decision was not arbitrary or capricious.
- 13. That further answering the Petition, Appellee believes and therefore avers that this Appeal was brought in bad faith and without substantial justification, and is intended solely as a means of delaying the development of the subject property to the detriment of the Appollee.

WHEREFORE, Amoco Oil Company, Appellee, requests that this Honorable Court:

. PROCEEDINGS BEFORE THE ZONING COMMISSIONER AND THE BOARD OF APPEALS FOR BALTIMORE COUNTY TO THE HONORABLE, THE JUDGE OF SAID COURT: And now come Arnold G. Foreman, Michael B. Sauer, and Lynn B. Moreland, constituting the County Board of Appeals of Baltimore County, and in answer to: the Order for Appeal directed against them in this case, herewith return the record of proceedings had in the above-entitled matter, consisting of the following certified copies or original papers on file in the Office of the Zoning Commissioner and the Board of Appeals of Baltimore County: February 8, 1989 Petition of Amoco Oil Company for Special Exception for an automotive service station (Gas-N-Go) and a convenience food store with less than 5,000 sq. ft. of retail sales area in combination with the service station. March 16 Publication in newspapers. March 21 Comments of Baltimore County Zoning Plans Advisory Committee. March 24 Certificate of Posting of property. April 12 Hearing held on Petition by the Deputy Zoning Commissioner. Order of the Deputy Zoning Commissioner GRANTING the Petition with restrictions. June 1 Notice of Appeal received from Kenneth T. Bosley, Protestant. Hearing on appeal before the Board of Appeals. January 5, 1990 January 16 Opinion and Order of the Board GRANTING Special Exception. Order for Appeal filed in the Circuit Court for Baltimore County February 14 by Kenneth T. Bosley, Protestant. Petition to accompany appeal filed in the Circuit Court for Baltimore County by Mr. Kenneth T. Bosley. MICROFILMED

CIRCUIT COURT

BALTIMORE COUNTY

File No. 90-CG-581

IN THE MATTER OF THE APPLICATION OF

EXCEPTION ON PROFERTY LOCATED ON THE *

AMOCO OIL COMPANY FOR A SPECIAL

NORTHWEST CORNER OF YORK & SHAWAN

8TH ELECTION DISTRICT 3RD COUNCILMANIC DISTRICT

KENNETH T. BOSLEY, PLAINTIFF

ZONING CASE NO. 89-403-XA

KENNETH T. BUSLEY

BALTIMORE COUNTY

* Case No.: 77/181/90CG581

APPLICATION OF AMOCO OIL COMPANY FOR A OF YORK AND SHAWAN ROADS

3RD COUNCILMANIC DISTRICT

ANSWER TO PETITION FOR APPEAL

the Petition filed by the Appellant, states:

the Petition.

in order to form a belief as to the truth of the allegations of

- A. Dismiss the Appeal and assess all costs against the Appellant;
- B. Award unto Amoco Oil Company attorney's fees and costs for having to defend this unjustified praceeding; and
- C. Grant unto it such other and further relief as the Court deems appropriate.

Covahey & Boozer, P.A. 614 Posley Avenne Towson, Maryland 21204 (301) 828-9441

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 5 day of March, 1990, a copy of the foregoing ? Swer to Petition for Appeal was mailed, first class, postage prepaid to The County Board of Appeals of Baltimore County, County Office Building, Room 315, 111 W. Chesapeake Avenue, Towson, Maryland 21204 and Kenneth T. Bosley, Box 334, Cockeysville, Maryland 21030.

90-03-51.cb

11. This Petitioner prays that this Court grant further and other such relief that the nature of this case may require.

WEREFORE, your Fetitioner respectfully request that this court remand this matter back to the County Board of Appeals of Baltimore County.

> Kenneth T. Bosley Cockeysville, Maryland 21030 771-4316

CERTIFICATE OF COMPLIANCE

I heraby certify that a copy of the aforegoing was mailed on 22nd day of February, 1990, postage prepaid to: F. Vernon Boozer, Esquire and Anthony J. DiPaula, Esquire, Covahey & Boozer, P.A., 514 Bosley Avenue, Towson, Maryland 21204, and to the County Board of Appeals of Ealtimore County, County Office Building, Room 315, 111 W. Chesapeake Avenue, Towson, Maryland 21204.

Kenneth T. Bosley Cockeysville, Maryland 21030

CIRCUIT COURT COUNTY BOARD OF APPEALS OF BALTIMORE COUNTY BALTIMORE COUNTY IN THE MATTER OF THE APPLICATION OF AMOCO OIL COMPANY FOR A SPECIAL EXCEPTION ON PROPERTY LOCATED ON CG Doc. No. _77_ NORTHWEST CORNER OF YORK AND SHAHAN Folio No. <u>181</u>

KENNETH T. BOSLEY

BTH ELECTION DISTRICT

3RD COUNCINANIC DISTRICT

ZONING CASE NO. 89-403-XA

.

IN THE

File No. 90-CG-581

The petition of Kenneth T. Bosley, Appellant, in proper person, respectfully represents unto this Honorable Court:

- 1. The Deputy Zoning Commissioner for Baltimore County granted a Special Exception IN THE MATTER OF THE APPLICATION OF AMOCO CIL COMPANY FOR A SPECIAL EXCEPTION ON PROPERTY LOCATED ON the NORTHWEST CORXER OF TORK AND SPAYAN ROADS for an automotive service station with a convenience food store on May 8, 1989.
- 2. A timely appeal was filed by this Appellant of the Deputy Zoning Commissioner's Decision granting a Special Exception.

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3. The County Board of Appeals of Baltimore County was in error because a plan of the proposed zoning that was entered into the proceeding was never approved by the C.R.G. (Baltimore County Review Group).

- 4. An access permit from the State Highway Administration has yet to be approved. Storm drains relocations still have yet to be approved by the State Highway Administration. Utility pole relocations have yet to be approved by the State Highway Administration and Ealtimore Gas & Electric Company. The Average Daily Traffic (ADT) count of 748 vehicles shown on the plan is substantially too low. An Amoco witness testified to the Board that 30,000 cars per day pass through and that 600 cars per day may stop at the Amoco. Thus even the latest plan submitted into evidence at the Board hearing wery tentative.
- 5. Amoco provided testimony that there will be no food preparation on site. This is contrary to the Baltimore County Department of Environmental Protection and Resource Management's comments to the Zoning Advisory Committee Meeting which characterizes this development as a food service facility which met submit plans and specifications to the Bureau of Regional Community Services. No testimony was given that food service plans and specifications have been submitted or approved by various health agencies.

the proposed development. Thus this Special Exception will be contrary to Section 501.22 of the Baltimore County Zoning Regulations as being detrimental to the health, safety, and general welfare of the locality involved.

6. There are no public restrooms indicated on the plan.

Restrooms should be provided especially since food service is part of

- 7. The Deputy Zoning Commissioner's decision states that lighting will be a maximum of 12 feet in height while the new plan submitted at the Board hearing has been raised to 14 feet in height. This should be reduced tack to the 12 foot height to reduce the night sky light intrusion to the community.
- 8. That the County Board of Appeals of Baltimore County's decision was arbitrary, capricious and was otherwise illegal.
- 9. That your Petitioner is an aggrieved party whose property is or will be adversely affected by the Decision of the County Board of *Appeals of Ealtimore County, and as a resident of this area, your Petitioner's personal health will also be compromised and substantially effected.
- ID. Mereia petitioner pray that this Court require by writ of mendamus or other decree the relief sought.

Amoco Oil Company, File No. 90-CG-581 Case No. 89-403-XA day of February, 1990.

> indalee M. Kuszmaul, Legal Secretary County Board of Appeals of Baltimore County

County Board of Appeals of Baltimore County COUNTY OFFICE BUILDING, ROOM 315 111 W. CHESAPEAKE AVENUE TOWSON, MARYLAND 21204 (301) 887-3180

February 15, 1990

F. Vermom Baczer, Esquire 614 Bosley Ivenue Towson, Maryland 21204

Dear Mr. Eccser:

Fe: Case No. 89-403-XA,

Amoco Cil Company :

July Judge MUNPHY AFFIRMED AFFEAU

FREC. APPEARS.

Notice is hereby given, in accordance with the Rules of Procedure of the Court of Appeals of Maryland, that an appeal has been taken to the Circuit Court for Baltimore County from the decision of the County Board of Appeals rendered in the above matter.

Enclosed is a copy of the Certificate of Notice.

LindaLee M. Kuszmaul Legal Secretary

cc: Anthony J. DiPaula, Esquire Mr. Charles Bogdanowicz L. Rodney Compton Richard Truelove Mr. Robert Hastings Ms. Sarah Adams K. Webster Bosley Ms. Betty Griffin P. David Fields

Fat Keller J. Robert Haines Ann M. Nastarowicz James E. Dyer ', W. Carl Richards, Jr. Docket Clerk -Zoning

12 programs

OF AMOCO CIL COMPANY FOR A SPECIAL EXCEPTION ON FECFERTY LOCATED ON THE * CIRCUIT COURT NOFTHWEST COPNER OF YORK & SHAWAN FOR STH ELECTION DISTRIC. BALTIMORE COUNTY 380 COUNCILMANIC DISTRICT RENNETH T. BOSLEY, PLAINTIFF CG Doc. No. <u>77</u> ZOKING CASE NO. 89-403-XA Folio No. 181 # File No. 90-CG-581

IN THE MATTER OF THE AFFLICATION

CERTIFICATE OF NOTICE

Madam Clerk:

Pursuant to the provisions of Rule B-2(d) of the Maryland Rules of Procedure, Armold G. Foreram, Michael B. Sauer, and Lynn B. Moreland, constituting the County Board of Appeals of Baltimore County, have given notice by mail of the filing of the appeal to the representative of every party to the proceeding before it; namely, Kenneth Bosley, Box 334, Cockeysville, MD 21030, Plaintiff; F. Vernon Boczer, Esquire and Anthony J. DiPaula, Esquire, 614 Bosley Avenue, Towson, MD 21204, Coursel for Amoco Cil Company; Mr. Charles Bogdanowicz, Amoco Oil Company, 14520 Green Road, Baldwin, MD 21013 and Arnold G. Foreman, Esquire, c/o County Board of Appeals, Room 315, County Office Bldg., Towson, MD 21204, a copy of which is attached hereto and prayed that it may be made a part hereof.

Linda Lee M. Kusymoul LindaLee M. Kuszmaul, Legal Secretary County Board of Appeals of Baltimore County Room 315, County Office Bldg., Towson, MD 21204 (301) 887-3180

I HERESY CERTIFY that a copy of the aforegoing Certificate of Notice has b mailed to Kenneth Bosley, Box 334, Cockeysville, MD 21030, Plaintiff; F. Vernon Boczer, Esquire and Anthony J. DiPaula, Esquire, 614 Bosley Avenue, Towson, MD 21204, Counsel for Amoco Oil Company; Mr. Charles Bogdanowicz, Amoco Oil Company, 14520 Green Road, Baldwin, ND 21013 and Arnold G. Foreman, Esquire, c/o County Board of Appeals, Room 315, County Office Bldg., Towson, MD 21204 on this 15th

Arnold Jabion, County Attorney



County Board of Appeals of Baltimore County

COUNTY OFFICE BUILDING, ROOM 315 111 W. CHESAPEAKE AVENUE TOWSON, MARYLAND 21204 (301) 887-3180

February 15, 1990

F. Vernon Boozer, Esquire 614 Bosley Avenue Towson, Maryland 21204

> Re: Case No. 89-403-XA Amoco Cil Company

Dear Mr. Boozer:

Notice is hereby given, in accordance with the Rules of Procedure of the Court of Appeals of Maryland, that an appeal has been taken to the Circuit Court for Balt fore County from the decision of the County Board of Appeals remu red in the above matter.

Enclosed is a copy of the Certificate of Notice.

Very truly yours,

Legal Secretary

cc: Anthony J. DiFaula, Esquire Mr. Charles Bogdanowicz L. Rodney Compton

> Richard Truelove Mr. Robert Hastings Ms. Sarah Adams K. Webster Bosley

Ms. Betty Griffin P. David Fields Pat Keller

J. Robert Haines Ann M. Nastarowicz James E. Dyer W. Carl Richards, Jr.

Docket Clerk -Ioning Arnold Jablon, County Attorney

County Board of Appeals of Baltimore County COUNTY OFFICE BUILDING, ROOM 315 111 W. CHESAFEAKE AVENUE TOWSON, MARYLAND 21204 (301) 887-3160

February 15, 1990

Mr. Kenneth Bosley Cockeysville, Maryland 21030

> Re: Case No. 89-403-XA Amoco Oil Company

Dear Mr. Bosley:

In accordance with Rule B-7(a) of the Rules of Procedure of the Court of Appeals of Maryland, the County Board of Appeals is required to submit the record of proceedings of the appeal which you have taken to the Circuit Court for Baltimore County in the above-entitled matter within thirty days.

The cost of the transcript of the record must be paid by you. In addition, the cost incurred for certified copies of other documents necessary for the completion of the record must also be at your expense.

The cost of the transcript, plus any other documents, must be paid in time to transmit the same to the Circuit Court not later than thirty days from the date of any petition you file in Court, in accordance with Rule B-7(a).

Enclosed is a copy of the Certificate of Notice which has been filed in the Circuit Court.

Very truly yours,

Legal Secretary

Encl.

EDITATE MOSLET COUNTY BOARD OF AFFEALS 20x 334 Cockeysville, Md. 21030 BALTINORE COUNTY

In the matter of:

AMOOD 011 Company NV Corner York & Shawan SE-Gas & Go & Food Store

******* NOTICE OF APPEAL

Ms. Clerk:

Please enter an appeal of the above entitled case to the Circuit Court for Baltimore County.

> Box 334 Cockeysville, Md. 21030

Case No. 89-403-XA

I hereby certify that on this 14th day of February 1990 that a copy of the above was mailed to Covahey & Boozer, Attorneys for the Petitioner, by prepaid first class mail to 614 Bosley Avenue, Towson, Maryland 21204.

Page 1

IN THE MATTER OF THE APPLICATION OF AMICO CIL COMPANY FOR A SPECIAL EXCENTION ON PROPERTY LOCATED ON THE . MORTHWEST COPKER OF TOPE AND SHAWAN BTH ELECTION DISTRICT 3RD COUNCILMANIC DISTRICT

COUNTY BOARD OF AFFEATS

BALTIMORE COUNTY MICROFILMED CASE NO. 89-403-X2

OPINION

This case comes tefore this Board on an appeal from the Deputy Zoning Commissioner's granting of a special exception for the use of the subject property as an automotive service station and a convenience food store with a retail sales area of less than 5,000 sq. ft. Testimony was given by Richard , Truelove, a professional engineer, who testified the site was one located at the northwest corner of York and Shawan Roads. The subject site is now vacant and had been a gas station in the past. In preparation of this project, the site had been excavated and the old gasoline tanks were removed. Mr. Truelove further advised that the site contained a gas-n-go service station with four islands located under a canopy. He further testified that this development plan went through the County Review Group (CRG) and was approved by them on March 23, 1989.

The surfect site will contain, in addition to the pumps, a 24 x 40 t building which will include the gasoline sales, a convenience food store of less than 5,000 sq. ft., an office, and storage space. Mr. Truelove further testified that the State Eighway Administration has approved this plan but no formal permit has been issued for the road construction. The plan (Petitioner's Exhibit Ec. 11 indicates that a road widening must be accomplished in order to proceed with this project.

Mr. Tharles T. Bogdanowicz, the project engineer for Amoco Oil Company, testified as to his experience in developing various sites for Amoco throughout the state of Maryland. He testified that there are six similar locations now

Amoco Oil Company Cas No. 89-403-XA

reasons:

located in Baltimore County. This self-serve gas-n-go station with the convenience store would be able to service a maximum of eight cars at a time and would contain four 10,000 gallon underground storage tanks. He further testified that an air quality permit has already been obtained. There would be no food preparation on site. He then described the types of items available for purchase such as cold sodas, hot coffee, prepackaged sandwiches, snacks,

Mr. Bogdanowicz further indicated that this site would be set back to the ultimate set back as required for future widening of the road as required by the various highway departments.

Mr. L. Rodney Compton, a business development representative for American Cil Company since 1961, told the Board that this area would be a proper location for a service station such as proposed. He explained the public need for this station as existing since there has been a large amount of commercial and residential development within this area. He further advised that the nearest service station was located 3/10th's of a mile south and that the nearest Amoco statict was located approximately 3.3 miles away at York and Padonia Roads.

Mr. Compton further testified that approximately 9,700 Amoco credit card holders live in the subject site zip code area and its surrounding areas and that the development of an Amoco station in that area would service not only their need but public need. He further testified that based on his review of the traffic counts in the area, he projects approximately 30,000 cars per day pass this station and that approximately 600 cars per day may access this site when developed. Mr. Kenneth T. Bosley appeared as a protestant and advised the Board that he objects to this special exception being granted for the following

1. That the hill which exists on York Road prior to the intersection with Shawan Poad produces a dangerous sight line to that intersection and he feels that the ingress and egress of cars and

Amoco Cil Company Case No. 89-403-XA

> trucks as well as cil tanker trucks from the site will present a dangerous cond'ion to the public.

2. That he owns 36 acres of property at York and Thornton Mill Roads and he feels he would be able to observe the sign and the lights from the site which would disturb the enjoyment of his property.

3. That no further road access permits have been granted to the

The Board next heard from Sarah Adams who lives four houses north of the proposed site who expressed her agreement with Mr. Bosley's statements. However, she indicated that she believed that a service station was needed in the area but that the convenience store was certainly not. After having reviewed the evidence, testimony and exhibits herein, the Board finds that the granting of a special exception would not conflict with any of the requirements set forth in Faltimore County Zoning Regulations, Section 502.1.

It is therefore this in the tay of Annual 1990 by the County Board of Appeals of Baltimore County ORDERED that the Petition for Special Exception requested herein for an automotive service station and ag convenience food store with less than 5,000 squift poffretail sales area be and the same is hereby GRANTED J

> COUNTY BOARD OF APPEALS OF BALTIMORE COUNTY Chesty Ston Arnold G/Foreman, Acting Chairman

TW RE: FETITIONS FOR SPECIAL EXCEPTION * BEFORE THE AND VARIANCE - NW/Corner Tork and Shawan Roads * DEPUTY ZONING COMMISSIONER Sth Election District 3rd Councilmanic District * OF BALTIMORE COUNTY

Amoco Oil Company

Petitioners

. FINDINGS OF FACT AND CONCLUSIONS OF LAW

The Petitioners herein request a special exception to use the subject property as an automotive service station (Gas-N-Go) in combination with a convenience food store with less than 5,000 sq.ft. of retail sales area, and a variance to permit one business sign of 183.02 sq.ft. total in lieu of the permitted three business signs totalling 100 sq.ft., all as more particularly described in Petitioner's Exhibit 1.

* Case No. 89-403-XA

The Petitioners, by Charles T. Bogdanowicz, Project Manager, and L. Roiney Compton, Real Estate Management Agent, appeared, testified, and were represented by Anthony J. DiPaula, Esquire. Also appearing on behalf of the Petition was Richard Truelove, a registered professional engineer with AFR Associates. The following individuals appeared as interested parties: Sarah Adams, K. Webster Losley, and Kenneth T. Bosley.

Testimony indicated that the subject property, located at the O O morthwest corner of York Road and Shawan Road, consists of 26,402 sq.ft. zoned B.M.-I.M., and is presently unimproved. Petitioners propose constructing a 24' x 40' building which will include a service station (gasoline sales only), a convenience food store with less than 5,000 sq.ft, as well as office and storage space. Testimony presented indicated there would be no food preparation on the premises. Further testimony indicated the store would sell coffee, fountain sodas, and other items generally found in a commemience store and that it would be open 24 hours a day, days a rear.

Mr. Compton, who has been a business development representative for Amond Cil Company since 1961, testified that in his opinion, the proposed project will not result in any adverse affect upon current traffic patterns. he further indicated that as a result of studies done by the company reparting credit card holders in the area, there is a need for a gasoline service station at the proposed location.

Roth Mr. Compton and Mr. Truelove testified as to the conditions delineated in Section 502.1 of the Baltimore County Zoning Regulations (B.C.Z.R.). Is their opinion, the conditions set forth in Section 502.1 will be met and the granting of the special exception in this instance will not in any way conflict with the requirements. Nr. Truelove further testified regarding the landscaping plans for the proposed site which he contends exceeds the requirements set forth in the Baltimore County Landscaping Manual.

Testimony presented by Petitioners indicated the requested sign Dvariance is necessary in order to provide mafe, adequate notice to prospective customers. At the request of the Deputy Zoning Commissioner and subsequent to the hearing, Petitioners submitted a revised sign diagram wherein the identification sign was reduced to 79.14 sq.ft. per side, or 158.28 sq.ft. total. Said plan has been incorporated into the case file and has been identified as Petitioner's Exhibit A. Further, Petitioners submitted a diagram of the proposed lighting to permit the Protesta ts an opportunity to review same and submit comments. Said diagram has been incorporated into the file and marked Petitioner's Exhibit B.

- 2-

Ms. Adams, who resides approximately four houses from the site, appeared as an interested party to voice her concerns regarding the proposed development. Ms. Adams as well as the Bosleys were concerned about the additional traffic which would be generated by the proposed project and resulting congestion on these heavily travelled roads. Further, Mr. Bosley was concerned about the size and height of the proposed sign and the type of lighting proposed for the subject property.

It is clear that the B.C.Z.R. permits the use proceed in a B.M.-I.M. zone by special exception. It is equally clear that the proposed use would not be detrimental to the primary uses in the vicinity. Therefore, it must be determined if the conditions as delineated in Section 502.1 are satisfied.

The Petitioner had the hoden of adducing testimony and evidence which would show that the proposed use met the prescribed standards and requirements set forth in Section 502.1 of the B.C.Z.R. The Petitioner has shown that the proposed use would be conducted without real detriment to the neighborhood and would not adversely affect the public interest. The facts and circumstances do not show that the proposed use at the particular location described by Petitioner's Exhibit 1 would have any adverse impact above and beyond that inherently associated with such a special exception use, irrespective of its location within the zone. Schultz v. Pritts, 432 A.2d 1319 (1981).

The proposed use will not be detrimental to the health, safety, or general welfare of the locality, nor tend to create congestion in meads, streets, or alleys therein, nor be inconsistent with the purposes of the property's zoning classification, nor in any other way be inconsistent with the spirit and intent of the B.C.Z.R.

After reviewing all of the testimony and evidence presented, it appears that the special exception should be granted with certain restrictions as more fully described below.

An area variance may be granted where strict application of the zoning regulations would cause practical difficulty to the Petitioner and his property. McLean v. Soley, 270 Md. 208 (1973). To prove practical difficulty for an area variance, the Petitioner must meet the following:

- 1) whether strict compliance with requirement would unreasonably prevent the use of the property for a permitted purpose or render conformance unnecessarily burdensome:
- 2) whether the grant would do substantial injustice to applicant as well as other property owners in the district or whether a lesser relaxation than that applied for would give substantial resief; and
- 3) whether relief can be granted in such fashion that the spirit of the ordinance will be observed and public safety and welfare secured.

Anderson v. Bd. of Appeals, Town of Chesapeake Beach, 22 Md. App. 28

It is clear from the testimony that if the variance is granted, as hereinafter modified, such use as proposed would not be contrary to the spirit of the B.C.Z.R. and would not result in substantial detriment to the public health, safety, and general welfare.

Pursuant to the advertisement, posting of the property, and public hearing on this Fetition held, and for the reasons given above, the relief requested in the special exception and a variance should be granted.

THEREFORE IT IS ORDERED by the Deputy Zoning Commissioner for

Reltimore County this _____ day of May, 1989 that the Petition for Special Exception to use the subject property as an automotive service station (Gas-N-Go) in combination with a convenience food store with less than 5,000 sq.ft. of retail sales area, in accordance with Petitioner's Exhibit 1, and a variance to permit one business sign of 158.28 sq.ft. total in lieu of the permitted three business signs totalling 100 sq.ft., in accordance with Petitioner's Exhibit A, be and are hereby GRANTED, subject, however, to the following restrictions which are conditions prece-Sent to the relief granted:

- 1) The Petitioner may apply for his building permit and be granted same upon receipt of this Order; however, Petitioner is hereby made aware that proceeding at this time is at his own risk until such time as the 30-day appellate process from this Order has expired. If, for whatever reason, this Order is reversed, the Petitioner would be required to return, and be responsible for returning, said property to its original
- 2) The variance granted herein is limited to one business sign of the size and dimensions as set forth in Petitioner's Exhibit A.
- 3) All lighting for the subject property shall be similar to that depicted in Petitioner's Exhibit B and shall not exceed 12 feet in height. Further, said lighting shall be directed away from any adjoining residential properties.
- 4) Petitioners shall comply with all comments submitted by the Zoning Plans Advisory Committee, including, but not limited to, the Department of Environmental Protection and Resource Management, Bureau of Water Quality, dated February 6, 1989, attached hereto and made a part hereof.
- 5) Petitioners shall provide compressed air and water to its customers at no charge.
- 6) Prior to the issuance of any permits, Petitioners shall submit a landscaping plan for approval by the Baltimore County Landscaping Planner.

7) When applying for a building permit, the site plan and lanscaping plan filed must reference this case and set forth and address the restrictions of this Order.

> In H Nostanowia ANN M NASTAROWICZ Deputy Zoning Commissioner for Baltimore County

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AMN:bjs

PETITION FOR SPECIAL EXCEPTION TO THE ZONING COMMISSIONER OF BALTIMORE COUNTY:

The undersigned, legal owner(s) of the property situate in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Special Exception under the Zoning Law and Zoning Regulations of Baltimore County, to use the berein described property for __an automotice service station (Gas-N-Go) pursuant to Mil Section 211.4, and a convenience food ators with less than 5.000 s.f. of retail sales ares in combination with the service station pursuant to BCZR

Property is to be posted and advertised as prescribed by Zoning Regulations.

I, or we, agree to pay expenses of above Special Exception advertising, posting, etc., upon filing of this petition, and further agree to and are to be bound by the zoning regulations and restrictions of Baltimore County adopted pursuant to the Zoning Law for Baltimore County.

I/We do solemnly declare and affirm, under the penalties of perjury, that I/we are the legal owner(s) of the property which is the subject of this Petition. Contract Purchaser: Legal Owner(s): Amoco Oil Company (Type or Print Name) / (Type or Print Name) Signature Charles T. Bogdanov Cx-Proi: Eng. Signature (Type or Prin' Name) City and State Attorney for Petitioner: 14520 Green Road I. Vernon Booter Clark on the face of 187 Baldwin, Maryland 21013 Signature 614 Bosley Avanue Name, address and phone number of legal owner, contract purchaser or representative to be contacted Towson, Maryland 21204 F. Vernon Boozer Name 614 Bosley Ave., Towson, MD 21204 828-9441 828-9441

Very truly yours, ANN M. NASTAROWICZ Deputy Zoning Commissioner for Baltimore County

Mr. K. Webster Bosley Mr. Kenneth T. Bosley

May 8, 1989

Enclosed please find a copy of the decision rendered in the

In the event any party finds the decision rendered is unfavor-

above-captioned matter. The Petitions for Special Exception and Zoning

able, any party may file an appeal to the County Board of Appeals within

thirty (30) days of the date of this Order. For further information on

filing an appeal, please contact Ms. Charlotte Radcliffe at 494-3391.

Variance have been granted in accordance with the attached Order.

RE: PETITIONS FOR SPECIAL EXCEPTION AND ZONING VARIANCE

8th Election District - 3rd Councilmanic District

NW/Corner York and Shawan Roads

Amoco Oil Company - Petitioners

Box 334, Cockeysville, Md. 21030 People's Counsel

Dennis F. Rasmusser

Attorney's Telephone No.: . ORDERED By The Zoning Commissioner of Baltimore County, this _____ day 1901, that the subject matter of this petition be advertised, as required by the Zoning Law of Baltimore County, in two newspapers of general circulation throughout Baltimere County, that property be posted, and that the public hearing be had before the Zoning Commissioner of Baltimore County in Room 106, County Office Building in Towson, Baltimore County, on the 12th day of Affect, 1922, at 11 o'clock Z.C.O.-No. 1

PETITION FOR ZONING VARIANCE TO THE ZONING COMMISSIONER OF BALTIMORE COUNTY: The undersigned, legal owner(s) of the property situate in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Variance from Section _413_2.f_to_sllow_one_(1) Business sign_with a area of _____ 183.21 s.f. in lieu of three (3) business signs with a total area of 100 a.f. as ed the Zoning Regulations of Baltimore County, to the Zoning Law of Baltimore County; for the following reasons: (indicate hardship or practical difficulty) 1. It will be very difficult to effectively advertise the location of the business and produces evallable. I. The variance is necessary for compliance with laws governing pricing and Fregerty is to be posted and advertised as prescribed by Zoning Regulations. L ac we agree to pay expenses of above Variance advertising, posting, etc., upon filing of this prefixing and further agree to and are to be bound by the zoning regulations and restrictions of Balamore County adopted pursuant to the Zoning Law For Baltimore County. I/We do solemnly declare and affirm under the penalties of perjury, that I/we are the legal owner(s) of the property which is the subject of this Petition. Contract Purchaser: Legal Owner(s): Amoco Q11 Company Signature Charles T. Boganowicz-Project Eng (Type or Print Name) City and State Attorney for Petitioner: I. Vernor Booset 14520 Green Road (Tire of Patry Name) Baldwin, maryland 21013 City and State 614 Bosley Avenue Name, address and phone number of legal owner, contract purchaser or representative to be contacted Towson, maryland 21204 F. Vernon Boozer City and State Altorney's Telephone No.: 614 Bosley Avenue, Towson, Md. 21204 Phone No. 528-9441 ORDERED By The Zoning Commissioner of Baltimore County, this day 12th day of

ting Commissioner of Baltimore County

AMOCO CIL CONFANY DESCRIPTION OF PROPERTY YORK ROAD AND SEAWAN ROAD 8TH ELECTION DISTRICT

Alexander P. Ratych, Prof. L.S. Richard J. Truelove, P.E. Kevin L. Quelet, P.E. Paul A. Ratych Edward F. Deiaco-Lohr, Prop. L.S.

BEGINNING FOR THE SAME at a point in the centerline of York Road (Maryland Route 45) and in line with the South side of 20' road or avenue along the first or North 80 degrees 48 minutes 04 seconds West 175.25 foot line of land which by Deed dated June 15, 1928 and recorded among the Land Records of Baltimore County in Liber 5900, page 513 was conveyed by Lawrence D. Finkner and Roberta A. Pinkner to Stefani Cochran; thence running from said point of beginning and binding along the centerline of York Road, referring all courses to the True Meridian as established for the Baltimore County Metropolitan District, South 00 degrees 59 minutes 45 seconds East 213.21 feet to a point in line with the former centerline of Shawan Road; thence leaving York Road and binding along said centerline of Shawan Road South 85 degrees 01 minutes 43 seconds West 164.94 feet; thence leaving Shawan Road and binding along the East side of another 20 foot road or avenue North 03 degrees 43 minutes 02 seconds West 220.00 feet to intersect the South side of the beforementioned 20 foot road or avenue; thence ... inding thereon North 87 degrees 24 minutes 13 seconds East 175.06 feet to the point of beginning; containing 0.844 acres more or less.

MICROFILMED

7427 Herfaid Road Between, Maryland 27234 [300 444-6312

11424 York Road, Cockeysville, Md. 21030

cc: Ms. Sara Adams

Baltimore County Zoning Commissioner Office of Planning & Zoning

(301) 587-3353

J. Robert Haines

Towson, Maryland 21204

614 Bosley Avenue

Dear Mr. DiPaula:

Anthony J. DiPaula, Esquire

Case No. 89-403-XA

Towson, Maryland 21204